00143597

BOMBAY BRANCH
OF THE
ROYAL ASIATIC SOCIETY.
TOWN HALL, BOMBAY.

Digitized with financial assistance from the
Government of Maharashtra
on 18 July, 2018

Report of

the Indian Statutory Commission 1930

1) Main report and

2) Provincial Governments' Despatches.

(Chairman — Irwin.)

cx. h 77

143597

ae

00143597

TABLE OF CONTENTS

		Pages.
1.	Preliminary	1—2
	POLITICAL FORCES IN INDIA.	
2.	General observations	2
3.	The political classes. Tendencies making for unity of view	2—3
4.	The commercial classes	3—4
5.	The landholders and the agricultural classes ..	4—5
6.	Industrial labour	5
7.	Means of appeal to the masses	5—6
8.	Sectional interests	6—7
9.	The growth of the nationalist spirit	7
10.	The nationalist demand	7—8
11.	The extent of support for the nationalist demand ..	8—9
12.	The extremist element	9
13.	Non-official European opinion	9—10
14.	Conclusions	10
	GOVERNING PRINCIPLES.	
15.	Opportunities for growth	10—11
16.	The ultimate ideal—An all-India federation ..	11
17.	Federal development in British India	12—13
18.	The problem at the centre	13—14
19.	Suggested conditions of a solution	14—16
20.	Ultimate considerations	16
	THE GOVERNORS' PROVINCES.	
21.	Boundaries Commission	16—17
22.	The abolition of dyarchy	17—18
	Provincial legislatures.	
23.	Their life-time..	18—19
24.	Their size	19

Ls149RO

		PAGES.
25.	The disappearance of the official bloc	19
26.	Constituent powers	19—20
27.	Second chambers	20—22
28.	The franchise	22—24
29.	Female suffrage	24—25
	Communal representation.	
30.	The Hindu-Muslim impasse	25—29
31.	The representation of Sikhs	29—30
32.	of Europeans	30
33.	of Anglo-Indians	30—31
34.	of Indian Christians	31
35.	of the depressed classes ..	31—32
36.	of non-Brahmins in Madras ..	32
37.	of Mahrattas in Bombay ..	32
	Special representation.	
38.	The universities	32
39.	The great landholders	32—34
40.	Commerce and industry	34
41.	Labour	34—36
	Provincial executives.	
42.	Unitary Cabinets	36
43.	Official ministers	36—38
44.	Non-elected non-officials	39
45.	Communal representation in the Cabinet	39—40
46.	The chief minister	40
47.	The Cabinet secretary	40—42
48.	Official advisers to the Governor	42
49.	The overriding powers of the Governor	43—45
50.	Fundamental rights	45
51.	Emergency provision	45
52.	Backward tracts	45—48
53.	The High Courts	49
	PROVINCIAL FINANCE.	
54.	Control of finance in the provinces	49—50
55.	Sir Walter Layton's scheme : its connection with the general constitutional structure	50—51

	Pages.
105. Suggested exclusion of defence	95
106. The constitutional aspects of this suggestion ..	95—96
107. A scheme contingent on exclusion of defence ..	96—99
108. The solution of dyarchy	99
109. Examination of dyarchy	99—101
110. To what extent could power at present be transferred	101—102
111. The problem of transferring finance and commerce ..	102—103
112. The problem of transferring law and order ..	103—104
113. A unitary government—Proposals of the Commission	104—105
114. Inclusion of members drawn from the legislature ..	105—106
115. The practice of responsiveness	106—107
116. How a Government of this type might be expected to work	107—109
117. Possibilties of deliberate obstruction	109
118. The scope of the popular element in such a Government	109—110
119. Members not removable by the legislature ..	110
120. Objections to a Government of this type	110—111
121. Powers of the Governor General	111—112
122. Potentialities of development	113
The Central Legislature.	
123. Two preliminary points	114
124. The central legislature and public opinion ..	114—115
125. Indirect election proposed by the Commission ..	115
The Lower House.	
126. The federal principle	115—116
127. The representation of provinces	116—117
128. The responsibility of the member	117
129. Proportional representation ..	117—118
130. Personnel	118
131. The confusion of electoral issues	118—119
132. Dissolution	119—120
133. Review of indirect election	120—121
134. A mixed system	121—122
135. Direct election	122—123

	Pages.
136. Advantages and disadvantages	123
137. Summary	123—124
138. Nomination	124—125
139. The size of the Assembly and its life-time	125
140. The franchise	125—126
141. Constituencies..	126
142. Illustrative statement	126—127

The Upper House.

143. The need for a strong second chamber	128
144. Numbers and qualifications of members	128
145. The electoral method	128—129
146. Nomination	129—130
147. Life-time	130

Defence.

Administrative problems.

148. Connection of civil departments with the administration of defence	130—131
149. Position of the Army Department under the existing system	131—132
150. Our apprehensions regarding the position of the Army Department under the Commission's proposals ..	132
151. Arguments on the other side	132—133
152. In the legislature	133—134
153. Effect upon the Indian soldier	134
154. Conclusion : the army should preferably remain under the Government of India	134—135
155. The portfolio of defence	135
156. The army estimates	135—136

Indianization.

157. The Commi[redacted] of the problem	136—137
158. The Commission's recommendations	137—138
159. Progress of Indianzation since 1928	138—139
160. Number of Indianizing units required	139
161. Question of an Indian military college	139—140

		Pages.
162.	Arguments that might be urged in favour of Sandhurst from the military point of view	140
163.	Arguments that might be urged in favour of Sandhurst from the political point of view	141
164.	Arguments for an Indian military college	142—143
165.	The Commission's scheme for a separate "dominion" army	143
166.	Tentative character of the scheme	144
167.	Possible objections to the scheme	144—145
168.	Another suggestion—Provincial battalions ..	145—146
169.	Reasons for preferring the continuance of a single army	146
170.	Conclusion	146
	FINANCE.	
171.	Considerations which affect the early transfer of responsibility for finance	146—147
172.	The four principal factors in the situation	147
173.	The financial significance of the responsibilities of Parliament	147—148
174.	Credit of India	148—149
175.	The Government of India's responsibilities in relation to currency	149—151
176.	Special difficulties inherent in the present financial and economic position	151—152
177.	Importance of central Government finance in the new constitutional scheme	152
178.	Conclusion that transfer of responsibility requires fulfilment of certain conditions	152
179.	Possible lines of development	153—154
180.	Safeguards after responsibility is transferred ..	154—155
181.	Relations with the Secretary of State	156—159
	COMMERCE.	
182.	The demand for liberty to control economic policy	159—160
183.	The customs tariff	160—161
184.	Discrimination against British business	161—162
185.	Qualifications for the practice of certain callings	162
186.	Public utility undertakings	162
187.	Ordinary British commercial undertakings ..	163—164

		Pages.
188.	Indian feeling that existence of British enterprises blocks advance	164—165.
189.	Necessity of doing justice to both British and Indian points of view	165—166
190.	Desirability of agreement	166—168
	Railways.	
191.	Administration of the Railway Department ..	168
192.	Purposes for which Parliament must retain control ..	168—170
193.	Necessity of separating commercial management from direction of policy	170—171
194.	Proposed statutory railway authority	171
195.	Necessity for enquiry	171—172
196.	Method of legislation	172
	External Affairs.	
197.	External affairs	173—174
	Relations between the Centre and Provinces.	
198.	Principles of classification	174—176
199.	Legislative jurisdictions..	176—178
200.	Administrative and financial jurisdictions	178—179
201.	Control	179—181
202.	Co-operation and co-ordination	181—182
	The Services.	
203.	The Indian Civil Service and Indian Police Service.—Continuance of recruitment	182—183
204.	The same.—Recruitment by the Secretary of State ..	183—184
205.	The same.—Rates of Indianization	184
206.	The same.—Future reconsideration	184—185
207.	The Indian Forest Service and the Irrigation branch of the Indian Service of Engineers	185—186
208.	The central services	186—187
209.	Safeguards and conditions of service	187—188
210.	Security of pensions, family pensions and provident funds	188
211.	Other recommendations	189
	Relations with the States.	
212.	The federation of all-India a distant ideal	189—190
213.	Paramountcy	190—193
214.	Matters of commen concern	193—134

PAGES

215. The Council for Greater India 194
216. Economic and financial relations .. .. 194—195
217. The need for a solution .. .. 195—196
218. The possibilities of conflict .. .. .. 196—197
219. An economic union .. .. 197—198
220. A settlement by agreement 198

THE HOME GOVERNMENT.

221 The executive authority of the Secretary of State .. 198—200
222. The Secretary of State's powers of superintendence, direction and control.. 200
223. The power of appropriation .. .. .. 200—201
224. Method of specification of the powers of the Secretary of State .. .. 201—203
225. Statutory rules 203
226. Interpretation of the rules .. .. .. 203—204
227. The Council of India as an independent authority—Its financial veto .. .. 204—205
228. The same—Its control of service conditions .. 205—206
229. The Council as an advisory body 206

GENERAL RESULTS.

230. British India a political entity .. .. .. 206—208

APPENDICES.

APPENDIX I.—Note by the Central Board of Revenue on customs .. .. 209—217

APPENDIX II.—Extract from a note by the senior Member of the Central Board of Revenue on the lowering of the taxable minimum and steepening the gradation of income-tax .. .. 218—220

APPENDIX III.—Estimates according to Sir Walter Layton's scheme .. 221—224

APPENDIX IV.—Statement showing the assignments to the local Governments under rule 15 of the Devolution rules for the years 1921-1922 to 1928-29 225

PAGES.

APPENDIX V.—Duty on foreign liquor .. .. 226—228

APPENDIX VI.—Taxation of tobacco .. .. 229—231

APPENDIX VII.—Excise duty on matches .. .. 232—233

APPENDIX VIII.—Terminal taxes .. .. 234—237

APPENDIX IX.—Memorandum by the Government of India, Finance Department, dated the 11th July 1930, on the financial aspects of the separation of Burma .. .. 238—254

LIST OF ENCLOSURES .. .. .. 255—256

No. 1 OF 1930.

GOVERNMENT OF INDIA.

REFORMS OFFICE

To

THE RIGHT HONOURABLE WEDGWOOD BENN,
D.S.O., D.F.C.,

His Majesty's Secretary of State for India.

Simla, the 20th September 1930.

SIR,

We have the honour to address you on the conclusion of the constitutional inquiry which has been conducted by the Indian Statutory Commission in accordance with the provisions of section 84-A of the Government of India Act, and to forward for the consideration of His Majesty's Government, as a preliminary to the discussions which will shortly take place at the Round Table Conference, our views on the further progress which might now be made towards the development of responsible government in India as an integral part of the British Empire. The report of the Indian Statutory Commission contains proposals of far-reaching significance and crucial importance, affording the most convenient, and indeed the inevitable, method of approach. We have further studied the reports of the provincial committees which were set up in connection with the Indian Statutory Commission, and we have derived great assistance from the valuable labours of the Indian Central Committee. We have, in addition to these documents, had the advantage of seeing the many suggestions made by individual thinkers in India and the scheme prepared by the All Parties Conference in 1928, commonly known as the Nehru report, which, though it has for various reasons ceased to occupy the forefront of the political stage, nevertheless remains as the most authoritative and detailed exposition of the views of constitutional nationalists that has yet been put forward. We have also paid due regard to the opinion

that has been expressed in India since the publication of the report of the Statutory Commission, and the most recent developments of this opinion will no doubt be placed before His Majesty's Government by the delegates at the Round Table Conference. Finally, we have received and transmit as enclosures to this despatch the weighty views expressed by local Governments.

The examination carried out by ourselves and the provincial Governments has been unavoidably handicapped by the circumstances in which it has been undertaken. The time available for reaching conclusions on matters at once so intricate and so important has been in itself short, and the attention of all Governments in India has been much occupied by the abnormal conditions arising from the civil disobedience movement, and in our own case from the situation on the North-West Frontier. Nevertheless, we have had the benefit of personal consultation with all the Governors of provinces, and have devoted much consideration to the various problems involved. We have not found it possible to deal in this despatch with all matters of detail, but we trust that our observations will be found to cover the main points.

POLITICAL FORCES IN INDIA.

2. **General observations.**—The solution of the great issues which now confront us is to be discussed at the Round Table Conference with a view to achieving the utmost possible measure of agreement between His Majesty's Government and the representatives of different parties and interests in India. It may therefore be convenient, before we come to our detailed observations, if we attempt to give some account of the political forces at work in India, the constitutional demands that are most commonly put forward, and the strength of opinion on which they rest. We recognize with the Statutory Commission the difficulty, particularly at a time of rapid change like the present, of estimating with accuracy these forces, and, set as we are amid many conflicting currents and much clash of old and new, of stating general conclusions. What we say, therefore, must be read subject to this caution. Complete agreement on general statements cannot be expected. We offer our observations merely as an attempt to draw a picture which in its broad outlines we believe to be accurate.

3. **The political classes. Tendencies making for unity of view.**—The Indian Statutory Commission in the able analysis of public opinion in India, with which the first

volume of their report concluded, pointed out that political thought and influence are, as is to be expected, principally concentrated in the towns. It is in the larger towns that are to be found those elements which give direction or active support to the political forces of the day. They consist of the professional classes, in particular lawyers, journalists and those connected with education ; an appreciable portion of the trading classes ; those engaged in clerical occupations ; the large number of students at the universities and colleges ; the melancholy army of those who having sacrificed much to go through the scholastic curriculum find at the end that their country offers them no employment : and, lastly, the small but growing body of educated women who are throwing themselves with enthusiasm into the new world of political affairs. These are perhaps the chief elements that go to make up what we may call the political classes. Their thought is profoundly influenced and unified by the writings of the press. It is no doubt a common characteristic of mankind all the world over that they tend to take their political views ready-made, and that with growing education those views are more and more moulded by the press. This characteristic is certainly very marked in India, and those who might be disposed to stand out against popular opinion as expounded in the press are not infrequently deterred by a sensitiveness to personal attack, which has not yet been blunted by long experience of public life. Journalism in India concentrates largely on the personal side, and the press is outspoken in its denunciation and ridicule of those who venture to express opinions in conflict with those generally accepted. There are other important factors which make for a prevailing unity of view on certain broad issues. The fact that the dominant power in India is in the hands of a foreign race cannot fail to offer to those who attack existing conditions the opportunity of a racial appeal. Again, a common desire for changes in the form of the Government acts as an inducement to preserve a united front, and to keep in the background such differences as exist. Finally, caste and family attachments are of peculiar strength, and the close intimacy of social relations promotes a common outlook.

4. **The commercial classes.**—We have mentioned above, as forming part of the political classes, the trading community. Like all generalizations this is open to qualification, and there may be differences of opinion as to the extent to which traders interest themselves in politics and what precise part pressure of different kinds plays in influencing their actions. But it can hardly be denied that the trading classes, which as a whole used in the past to be content to occupy themselves with their business, have been taking a more and

more active share in politics. Though men prominent in industry and commerce have for many years played their part in public affairs, the feeling that improvement of trade and industry is to be sought through political channels is a development of comparatively recent times. The extreme illustration of the way in which this idea has gripped the business community is to be found in the attitude of the commercial classes in Bombay during the present civil disobedience movement. After all allowance is made for the religious and emotional appeal of Mr. Gandhi's name for his own countrymen, the Gujeratis, who form such a large element in the life of Bombay city, it must be recognized that the commercial community of Bombay has in pursuit of political power been lending its support, both moral and material, to a movement in defiance of the law, which might have been expected to have no attraction for those whose interests depend on stable and peaceful conditions.

5. **The landholders and the agricultural classes.**—Passing to the more conservative elements in the population, the most important class is that of the larger landholders. In many parts of the country they still retain in their estates and villages a traditional authority, which, though it may now meet with some challenge, is yet one of the active forces in the life of the community. The spread of education and the influence of the press tend constantly to enlarge the number of landholders who might be included in what we have called the political classes. On the whole they remain at present a conservative force, conscious that their influence is likely to suffer from too rapid political changes, and beginning to realize that the defence of their interests requires a more active participation in public life. Below them in the agricultural world come the small landholders and the more substantial peasantry. This is a class about which it is peculiarly difficult to generalize. Broadly speaking, prosperity brings education, and education fosters political ideas. It does not follow that the ideas of this class necessarily coincide with those of the corresponding urban classes: indeed in the Punjab where the small landholders are a strong and increasing force there are signs of the development of a conflict of interests between them and the town dwellers. But whatever may be their views, the important point is that they have views, and cannot be regarded as forming part of the unthinking masses. The events of the last few years in Gujerat afford a striking illustration of the effects which this class can produce when guided in a political direction. Below this stratum come what may be called the agricultural masses, a political force of great potential importance, but in

normal times interested in little outside their own villages, their own immediate needs and conditions, and the hard struggle for existence. It would be fair to say that they have no informed conception of the political problems of India.

6. **Industrial labour.**—The towns too have their counterpart to what we have described as the agricultural masses. The bulk of industrial labour is ignorant and uneducated. Their surroundings are often primitive and insanitary, though steady efforts are being made to improve their lot. Living in towns they are more closely in contact with political movements than are the agricultural classes, but it is doubtful whether the ordinary political ideas make much appeal to them. In the towns too are to be found those lower strata of the population which can easily be worked up into mob demonstrations and violence. These elements and the industrial population have formed in recent years the objective of communist propaganda. In some of the larger industrial towns the doctrines of communism for a time made appreciable progress, particularly in Bombay. The movement has recently received a check, but it undoubtedly survives as a continual menace to orderly progress and the well-being of the community.

7. **Means of appeal to the masses.**—The general effect of the picture we have endeavoured to draw is that the classes affected by political opinion form a wide circle which is steadily expanding. It is continually establishing new contacts with those portions of the population which have hitherto been indifferent. But beyond the furthest range of the genuine influence of political reasoning and argument, those who wish to rouse the unpolitical masses are able to play on their feelings by appealing to the interests which are intense and vivid in their lives. First among these interests must be placed religion. It was the power of religion which enabled Mr. Gandhi during the non-cooperation movement ten years ago to rouse and sway the masses to a degree hitherto unknown in British India, and it is the veneration in which he is held for his ascetic life and moral teaching that gives him a great part of his popular appeal today. It was the power of religion working through the Khilafat movement, which for a time diverted the Muslim community from their traditional relations with the British Government. It was the appeal of religion, that recently threatened to destroy the work of the reformers in the Child Marriage Restraint Act, commonly known as the Sarda Act, and has been used to rouse the transfrontier Muslim tribes against a Government responsible for a measure which could have no application to them.

The second of the main interests through which the masses may be roused is the land. India is predominantly an agricultural country and the land is the basis of life for the great majority of the people. Consequently they may be immediately and profoundly affected by anything which touches the land, in particular land revenue and land tenures. Agrarian problems are seldom far below the surface.

The third method of approach to the masses is one that is still comparatively new and untried. It is broadly speaking the method of revolutionary communism, the appeal to the "have-nots". There are signs in the armoury of political agitation of an increasing insistence on the facts of poverty in India, not with a view to constructive effort in remedy of the causes, but for the purpose of exciting feelings against the propertied classes and an alien Government. Not much progress has been made on these lines except in the industrial towns. But it is part of the policy of communism to spread its doctrines among the peasants.

8. **Sectional interests.**—In speaking hitherto of political interests we have had in mind chiefly those broad issues of public policy which group themselves round the demand for an increased measure of self-government, and we have tried to suggest the area over which interests of this kind are active. There are, however, other interests which make a genuine appeal to large bodies of people on lines other than those of nationalist politics. One of the marked effects of the present constitution, with its introduction of the forms of democratic government and its transfer of power not only in the provincial councils but in local bodies, has been the recognition of the fact that any group or section which has a common bond of interest can secure its objects only through organization. The binding forces of society outside the family are religion and caste, and there has been a definite quickening of communal and caste feeling, and a tendency for people to group themselves politically under these categories, which have for them a practical significance. It is felt that a common interest unites those who belong to a particular caste or a particular religion, and at a time when novel and broader ideas have not yet succeeded in establishing themselves, it is no doubt inevitable that the earlier manifestations of political awakening should among large sections of the population take a form that is familiar and can readily be appreciated. Local and provincial patriotisms also show unmistakable signs of development. All these indicate the real emergence of a public opinion and a general will, in a form however restricted, expressing themselves through the relations which most closely concern and interest the masses of the people. Forces of this kind reach elements of the

population which are untouched by the ideas of nationalism, but it must be remembered that they are always at hand to be utilized for nationalist ends.

9. **The growth of the nationalist spirit.**—In saying this we do not wish to minimize the extent of the genuine influence of nationalist ideas. There is no doubt that a considerable degree of national consciousness has been evoked among the educated classes as a whole. With the economic and educational development of the country have come, naturally and honourably enough, a greater self-respect, both individual and national, and a demand for equality of treatment and status with the West. The rise of Japan as a great Asiatic power supplied an early stimulus to this movement. Since then the stream of western thought in the present century has more and more brought India within the line of its current. Intercourse with the world grew. The influence of western education increased. Students in ever greater numbers went to England and returned. Older men, and even women, visited Europe more freely, and with a riper judgment compared other countries with their own. Conscious of the magnitude of her share in the Great War, India has watched with close interest nationalist movements in Afghanistan, Persia and China, while in another direction Ireland and Egypt have been examples which have constantly been before her eyes. All this has encouraged nationalism and democratic thought. One consequence of the growth of nationalist feeling has been to make Indian opinion exceedingly sensitive to any ill-informed judgments, which might appear to indicate a lack of trust, and to all that might be held to mark the status of India as inferior to that of other units in the Empire. India could hardly remain unaffected by what has gone on around her, while at home the constitution of 1919, however far it fell short of full self-government, had set her feet firmly on the path. It was therefore inevitable that this nationalist impetus should come, and it would be a grave mistake to under-estimate its force or to depreciate its value. It is a necessary condition of the building up of a wider and more vigorous life, and of that development of a self-governing India which from early times has been the ideal of the most far-seeing of its British administrators.

10. **The nationalist demand.**—The nationalist demand is for self-government and dominion status. It is couched in terms of British thought and British institutions, for it emanates from those who have been profoundly influenced by British ideas. The demand for self-government, stated in practical terms, is that India should be allowed to manage her own affairs both in the provinces and, subject to any temporary safeguards that may be requisite, at the centre. The claim to dominion status, so far as that can be separated

from ideas of self-government has perhaps a sentimental, but not on that account any less potent, aspect. The demand is not only that India should be enabled actually within necessary limits to settle her own affairs but that she should be publicly recognized before the eyes of the world as competent to settle them. Both these ideas are included by Indian opinion in that dominion status which the announcement by His Excellency the Viceroy on the 31st October, 1929, described as the natural issue of India's constitutional progress.

It is possible to trace in these political aspirations two separate trends of thought. The first is directed to the natural satisfaction of a national pride and national sentiment. The position of India in the Empire has been ambiguous. There are undeniable obstacles to the attainment of complete self-government at once. But are these obstacles to be used for the purpose of delaying the progress of India, or is a genuine attempt to be made to overcome them? Are differences of race and culture to keep India permanently in a position of inferiority to the great Dominions, or is a place to be found for her within the Empire which will satisfy her claims to equal treatment? To those, in whom such are the dominant ideas, the actual detailed means by which their ideas may be translated into fact are often not of great account. The second line of thought is directed to the fulfilment of concrete policies. Those who think on these lines have an essentially practical outlook and demand power in order to achieve certain definite objects.

11. **The extent of support for the nationalist demand.**— It happens that the course of the civil disobedience movement in the last few months has exhibited with sufficient plainness the strength of the nationalist forces and also their limitations. It is clear that they have on their side a substantial measure of support from educated Hindus of all classes, for large numbers of those who have not actually joined the movement, being repelled by its methods, have shown unmistakable sympathy with its aims. There is little doubt also that the minority communities to a large extent share in these broad nationalist aspirations, but it has become plain, if demonstration were needed, that generally speaking they are not without apprehensions of their position in a self-governing India, and they are concentrating attention on the protection of their rights and interests. It is assumed that for some time after the introduction of the new constitution politics are likely to remain on a communal basis. It will only be by a gradual process that the handling of practical problems of administration and policy will lead to the development of parties which will be divided on different

lines. The landed interests also are anxious about their future. The depressed classes, so far as they are beginning to develop some political consciousness, look with uneasiness at the prospect of Governments dominated by the higher castes. The great mass of the people, though, as we have said, capable of being galvanized into action by appeals on those matters which really interest them, regard with some indifference political changes which they do not understand. It is instructive to observe how during the present civil disobedience movement strong feeling has been aroused in the towns, and outside the towns in particular localities where either the conditions were peculiarly favourable, such as Gujerat, or where some local grievance could be exploited or some doubt sown as to the power of Government to maintain its authority. But looking at the country broadly, a political agitation of remarkable intensity and fervour has left the rural districts but little affected.

12. **The extremist element.**—In speaking hitherto of the nationalist forces we have had in mind primarily those elements in the movement which are prepared to look to constitutional advance within the Empire. But it must be recognized that there is, particularly among the younger men, a considerable body who have adopted independence not as a phrase but as a settled aim, who are fundamentally hostile to the British connection and who, though they may not all favour or believe in the efficacy of the methods of terrorism which many of them are prepared to pursue, are at any rate convinced that it is only by force applied in some form or other that they can achieve their end. With such men it would be idle to expect that any settlement is possible. They will oppose any agreement that may be reached, and the most that can be hoped is that gradually through experience of a constitution, which gives a considerable degree of self-government, they may come to realize that more can be achieved by working the constitution than by endeavouring to overthrow it.

13. **Non-official European opinion.**—We must not close our account of political opinion in India without giving some impression of the attitude of the non-official European community. The Statutory Commission have emphasized the important contribution which this community has made to the economic development of India and the influence it possesses in virtue of its widespread commercial activities. Prior to the introduction of the present constitution the interest of the community in politics was limited, but since 1919 it has realized the necessity of taking its full share in the political life of the country. Its entry into active politics has been marked by an increasingly liberal spirit towards Indian aspirations, and during the inquiry of the Statutory Commission

it showed itself ready to look with favour on proposals for political advance, subject to the provision of adequate safeguards for its rights and legitimate interests. The civil disobedience movement with its accompaniment of a boycott of British goods and British trade, through which it was hoped to bring pressure to bear on His Majesty's Government, has had marked reactions on those who felt themselves unfairly attacked and who resented this intrusion of politics into business. Resentment has been slow in gathering force, but recently European commercial opinion has shown unmistakably that it does not mean to allow itself to be coerced by these methods, and there has been some consequent stiffening of its attitude towards political advance.

14. **Conclusions.**—We have made above some attempt to describe the main political currents and forces that are moving over the formerly placid surface of India. If our reading of the situation is accurate, it is evident that the new constitution must be such as will take full account of these new forces. The time has passed when it was safe to assume the passive consent of the governed. The new system must be based as far as possible on the willing consent of a people whose political consciousness is steadily being awakened. There is still in the country a fundamental respect for authority. The new legislatures have established for themselves a position which is gradually coming to be understood and accepted by increasing numbers. Constitutional forms are for the most part respected and observed. The conditions for a substantial transfer of power are not in our view unfavourable, and we are convinced that the time has come when the broadest considerations of Imperial policy demand that we should spare no efforts, and even take some risks, in order to arrive at a constitutional solution which will give reasonable scope to the ideas and the aspirations that are moving India to-day.

GOVERNING PRINCIPLES.

15. **Opportunities for growth.**—The Indian Statutory Commission have at the beginning of the second volume of their report, before explaining their detailed proposals, set forth plainly the general principles on which their recommendations are based. We think it will be convenient if in the same way we make clear at the outset our general outlook on the constitutional problem and the principles which guide our conclusions. In the first place we are in full agreement with the view of the Commission that the new constitution should not be unduly rigid, and that it should allow of natural growth and diversity. For instance, it might ease processes of transition if formal

provisions which may require subsequent change could be drafted in such a way as not to involve legislation if and when it is desired to make the change. Again, within the general framework of the constitution in the provinces it might be possible to allow certain variations suggested by local conditions and favoured by local opinion. Finally, we should hope that both in the provinces and at the centre the constitution would give opportunities for development by practice and convention in accordance with actual needs and experience. The evils that flow from a temporary constitution have been fully set out by the Commission. Our aim must be to establish a constitution which should, as far as possible, contain within itself provision for its own development. We recognize however that that aim can be more fully attained in the provinces than is possible at the centre, where the ultimate form of the Government cannot as yet be so clearly discerned.

16. **The ultimate ideal—An all-India federation.**—The Commission have pictured the ultimate constitution of India as an all-India federation including not only British India, but also the Indian States. That is an ideal which we fully accept. There is an essential unity embracing the whole of India, which we hope will at some future time find expression in certain joint political institutions. But it is clear, as the Statutory Commission have been careful to point out, that this ideal is at present distant, and that the federation of Greater India to which they look forward cannot be artificially hastened. Much may be done to promote a more vivid sense of the unity of interests in many spheres between British India and the various States, and to develop the conception that there are matters of common concern which can best be treated in consultation. Nevertheless we must recognize that the time has not yet come when the general body of Indian States would be prepared to take a step so far-reaching in its character as to enter into any formal federal relations with British India. While, therefore, we are entirely at one with the Statutory Commission in holding that the ideal is a federation of all-India, and that this ideal should be clearly borne in mind when drawing the main outlines of the constitution of the new India, we must also recognize that the ideal is not likely to realize itself, save in its own due time. There is a certain danger that if we direct our gaze too fixedly to a distant future we may tend to overlook the needs of an urgent present. The main problem which must engage our attention is how British India may be developed in a manner which shall not only be consistent with the wider vision, but shall be appropriate to its own immediate requirements.

17. **Federal development in British India.**—We have no doubt that apart from the importance of designing a structure into which the States may later fit themselves, the conditions of British India itself point clearly to a federal development. India under the old system of bureaucratic government was administered on strongly centralized lines. With the first steps along the path of democracy it was necessary to relax control at the centre, and as the Statutory Commission point out, the completion of the policy contained in the announcement of August 20th, 1917, was pictured* by the authors of the Montagu-Chelmsford report in the form of " a congeries of self-governing Indian provinces associated for certain purposes under a responsible Government of India ". This remains in our opinion the only feasible policy for translating responsible institutions into a country containing so huge a population and such diverse elements. The acceptance of the federal idea for British India carries with it the obligation to develop as rapidly as possible the emergence of the self-governing units which must form the component parts of the federation. As the Commission point out, we shall be engaged on a process which is the reverse of normal. We do not start with self-governing states which agree to combine. We have already an administrative unity, and our first task is to decentralize with a view to permitting the development in the provinces of that degree of independent activity which should characterize the units of a federation. We are, therefore, in full agreement with the broad aim of the Commission to give to the provinces the maximum of autonomy consistent with the interest of India as a whole, and to make each province as far as possible mistress in its own house. But in following this policy we must be careful not to sacrifice the spirit of national unity which has gradually been developing under the centralized British administration. We require a vigorous central authority capable of sustaining the heavy burdens that necessarily fall upon it. It will be responsible for the defence of the country against external attack, and for the maintenance of the ultimate conditions of internal tranquillity ; for the finances of India as a whole and its credit in the markets of the world ; for its commercial and tariff policy ; and for all those matters of common concern which must be handled by a central Government. It should be in a position to mobilize the experience, talent and resources of all India for the more efficient pursuit of such objects as agricultural, medical or economic research. It must also possess powers of intervention if developments

*Joint Report, para. 120.

in any province are such as to affect any other part of India or the administration of any central subject.

18. **The problem at the centre.**—The most difficult problem that confronts us is what form this central authority should take. It is clear that many of its functions must for some time continue to be exercised, as they are at present, in responsibility to the ultimate will of Parliament. The material foundations of modern India's life have been laid by the hand of Britain, and in the process British interests have come to be deeply engaged in India. A history to which Britain can look back with pride has left results which profoundly influence the present. The security and the prosperity of India represent an interest of Britain as well as of India, and an interest of such magnitude that Britain cannot afford to see it jeopardized. It might be argued that as any complete form of responsible government at the centre is, for the reasons we have just indicated, in present conditions impossible, no attempt can usefully be made to invest the Government with any popular sanction. A central Government should be constructed which would throughout the field of its functions be plainly responsible to Parliament alone, and in order that the executive might fulfil these responsibilities the legislature should be so constituted that it could be depended on to grant to the executive the money and the legislation required to carry out the policy of Parliament. The legislature would to some extent reflect opinion in India, and its views would be taken into account before decisions were reached. But when once the Government of India, in agreement with the Secretary of State, had reached conclusions, the Indian legislature would be content to implement them. Such a Government would no doubt be strong in the sense that it could count on getting its own way. But it would be wholly deprived of that element of strength which comes from the support of public opinion. We have set out this alternative quite frankly, for it represents one of the logical extremes, as complete self-government represents the other, and when proposals for some intermediate position are put forward and are attacked, as they well may be, on the ground that they may lead to divided counsels, it is important to realize clearly that the two extreme positions are impossible. The Statutory Commission had no doubt on this point. They stated that as a matter of practical politics there could be no question of going back to a previous stage by providing that the Assembly should have an official majority or by reducing its powers. On the contrary, they have addressed themselves to the task of considering how the machinery by which Indian political opinion expresses itself and exerts its influence at the centre

may be improved. We are in entire agreement with this view. The solution of our difficulties is not to be found by attenuating the channels through which Indian political opinion finds expression, but rather by harnessing that opinion to constructive work, so that what is at present a danger to the stability of Government may be converted into its main support. The Statutory Commission have put the point in words which we would desire to endorse:—

> *"Nationalism is a force with immense power for good or evil, and the task in the future is to utilise that force for constructive ends. For nationalist movements that fail to find an appropriate outlet for their energies tend to mere strife and futility."

19. **Suggested conditions of a solution.**—The conditions of the problem suggest to us the importance of defining as clearly as possible the purposes which Britain must continue to safeguard in India, and making it plain that where those purposes are not concerned India should be free to manage her own affairs. The British Government must satisfy itself on certain essential points, for instance, that the defence of India from external attack, which rests, and for many years must continue to rest, largely on British troops, is fully assured; that relations with foreign States, with the ultimate possibilities of war which they involve, are conducted under its authority; that the conditions of internal security are maintained; that financial obligations are provided for and the requisite financial stability and credit of the country adequately secured; that reasonable treatment is accorded to minorities; and that unfair discrimination is not practised against any section of the community. In our opinion the ultimate control of these matters must in present conditions reside in the British Parliament. It would be understood that upon Parliament rests an obligation to secure certain definite purposes, and that for these express purposes it may be necessary for Parliament to intervene at any point in the administration of the central Government. Where these purposes are not affected, the policy and administration at the centre may properly be regarded as the concern of India alone. From this point of view the activities of the central Government might perhaps be viewed as falling into three categories. There would be, in the first place, those subjects in which the interest of Parliament might be expected to be continuous, such as defence, foreign affairs, the preservation of general tranquillity and the fulfilment of

*Volume II, para. 19.

financial obligations. Secondly, there would be subjects in which Parliament would be interested only occasionally, if and when it became clear that the policies pursued were affecting the purposes which Parliament wished to safeguard. We should be inclined to include in this category the methods of taxation by which the revenue of the central Government is raised, the tariff and commercial policy, and the management of railways. We should expect these matters normally to be directed in accordance with the views that commended themselves to the majority of Indians, but subject always to the possibility of Parliamentary intervention if any of the purposes of Parliament were threatened. Finally, there would be a range of subjects in which we should hope that a popular policy would seldom, if ever, come into conflict with the responsibilities of Parliament. Such would be, for instance, the general economic development of the country, industrial policy and questions of labour ; the ordinary administrative services which the central Government carries out, such as the management of the postal and telegraph systems or the customs administration ; the development of communications whether by land or air ; the co-ordination of those activities which form the primary concern of the provincial Governments, such as education, health and agriculture ; the promotion of social reform, and many other matters of great importance to the welfare of the community. Again, the selection of the representatives of India at Imperial conferences or at the League of Nations, and, subject to any overriding considerations of Imperial policy, the instructions given to them appear to us to be matters which might well be left to the determination of India. The relations of India with other parts of the Empire must naturally be of concern to His Majesty's Government. But we should hope to see a development of the existing practice whereby India is enabled to deal direct with the Governments of the Dominions in certain matters that affect her closely. Generally, in regard to the sphere in which the central Government might expect to be allowed to pursue its own policy, we think it is important to remember that it is proposed to hand over to responsible Governments in the provinces the administration of all the functions which most closely touch the life of the people. It seems to us evident that in some form or other comparable activities, which are the charge of the central Government, should also be administered in relation with the popular view, provided always that the broad purposes of Parliament which we have described above are not affected. The precise form by which public opinion may make itself felt in a Government, which must be prepared in certain matters to be guided ultimately by the will of Parliament, is the cardinal problem that confronts us. We offer our own

suggestions later, not with the idea that they are proof against criticism, but as indicating general lines of development which seem to us, on the basis of our own experience, less open to objection than others that we have seen. But whatever may be the plan adopted, we are convinced that no scheme of Government at the centre can work with success, unless it is recognized that Parliament and the Indian legislature have each their special contribution to make to the welfare of India which is the joint purpose of both. Our aim should be a partnership in a common cause.

20. **Ultimate considerations.**—The Statutory Commission suggest that there may be a further complication in a problem already sufficiently complicated. They utter a caution against the development at this stage of institutions which might prejudice the ultimate form of the central Government. The caution is no doubt one that should be borne in mind. But caution in this respect must not be carried to the point of allowing ourselves to be immobilized from fear that any step we take may prove not to be leading us directly to our end. There is much to be done before that end can be reached, and, if we hope to reach it, we must be prepared to test by experience the forms and methods of that type of Government which will eventually emerge. It is clear that the aim for the centre as for the provinces must be the progressive realization of responsible government. There already exists in the Legislative Assembly an organ which as it develops will become one of the main instruments of responsible government at the centre. Responsibility will come as the result of the relations established between the legislature and the executive. We cannot at present foresee precisely what the ultimate development of those relations will be. But it seems to us plain that we should without delay set ourselves to the task of encouraging the establishment of effective relations between these two bodies, and thus prepare the foundation for the full responsible government which we desire to reach.

THE GOVERNORS' PROVINCES.

21. **Boundaries Commission.**—We come now to a consideration of the detailed proposals made by the Statutory Commission, and following the order in which they have approached the problem we shall deal first with the Governors' provinces. The first subject on which the Commission touch is the need for provincial redistribution. They suggest that the Government of India should set up, as a matter of urgent importance, a Boundaries Commission with a neutral chairman, to investigate the main cases in which provincial readjustment seems called for. The

two particular cases to which the Commission themselves give their attention are Orissa and Sind.

The claim of the Oriyas to a separate province of their own is of long-standing. In their letter the Government of Bihar and Orissa have drawn attention to the need of making early investigation into all relevant factors with a view to satisfying the very natural desire of the Oriya-speaking peoples to possess an administration of their own. The claim of Sind to be a self-contained unit has become increasingly prominent in recent years. The preponderance of the local population is Muslim, and their claim to separation from the Bombay Presidency has been ardently advocated. Neither on Orissa nor on Sind are we yet in a position to tender final advice, but we urge that enquiries be set on foot at the earliest possible date. We should not contemplate entrusting the task to a single Boundaries Commission. The two problems are not connected, and we would suggest investigation by two separate committees. We wish to emphasize the need for expedition in reaching conclusions on these two outstanding cases, which are respectively of fundamental importance to the two provinces of Bihar and Orissa and of Bombay, as they now exist, in order that, if new arrangements are required, they may be introduced simultaneously with the new constitution. We conceive that the Sind Committee will be concerned primarily with the administrative and financial aspects of separation, for the question is not one of boundaries. In Orissa on the other hand difficult questions of future boundaries will be directly in issue.

Other possible readjustments of provincial boundaries should in our view stand over, until opinion has more clearly expressed itself. It would be for the new administrations themselves to take up such cases as they arise.

We note in passing that the separation of Burma may involve readjustments of the boundary between that province and Assam. To this reference will be found in the letter of the Government of Assam.

22. **The abolition of dyarchy.**—In agreement with the great mass of opinion in this country, both official and non-official, we accept in principle the recommendations of the Commission for the reconstitution of the provincial Governments. In so doing, we do not associate ourselves with those who pass an unqualified condemnation on the existing dispositions. On the contrary we pay our tribute to those who planned and those who have worked the provincial constitutions. Dyarchy in the provinces was never intended to be more than a transitional device, a first step on the difficult

road towards a completely responsible system. With few exceptions goodwill has been forthcoming, and an earnest endeavour has been made to translate into action the opportunities which the constitution has offered. Provincial Governments, whether on the reserved or the transferred sides, can take reasonable pride in their administrative record. Policy may sometimes have been at fault ; results may not always have balanced expectations ; but on a broad view much has been accomplished that might have been difficult of achievement under the older unreformed system. We are clear, however, that a stage has now been reached in the political growth of the provinces at which the next step forward should be taken boldly. We agree with the Commission that the time has come to remove the boundary set up between departments of which ministers may take charge and those from which they are excluded. To reserve law and order would be to concentrate attack on the most delicate part of the machinery. The arguments in favour of transfer have been authoritatively and, to our mind, conclusively stated by the Statutory Commission and the Indian Central Committee. We do not disguise from ourselves the risks inherent in so great a change. But, subject to the necessary safeguards which the Commission have suggested, we are prepared to see provincial administration in all subjects entrusted to responsible ministers, linked together in a common accountability for their policy, and operating in relations with popular legislatures from which the official element will have disappeared, and in which the nominated element will have been reduced to the smallest proportions.

On the main issue that a great step forward should be taken, the unanimity of the provincial Governments is complete. Differences of opinion on details merely anticipate what we ourselves consider to be probable, namely, that the working of the new system may not follow identical lines in all provinces. A single rigid system might hamper, and not assist, the ready expansion of free institutions. Some freedom in the constitution is needed in order to facilitate local growth in forms suited to local conditions.

The provincial reports sufficiently indicate the provincial view and we do not ourselves propose at this stage to discuss in detail the recommendations of the Commission on all provincial points. There are, however, certain matters on which comment is required, and to these we now turn.

Provincial legislatures.

23. **Their life-time.**—There is no dissent from the proposition that the normal statutory life of provincial legisla-

tures should be raised from three to five years. We join with the provincial Governments in accepting the proposal.

24. **Their size.**—The Commission criticize the size of the present councils and find them too small. They suggest that unless an increase in the size of the electorate is accompanied by an increase in the number of constituencies the reality of representation may be prejudiced. They remark that increased membership of the provincial councils will facilitate their plan of representation at the centre. The recommendation which they make is that in the more important provinces there should be an immediate increase to a figure between 200 and 250.

We accept in principle the suggestion that there should be a material enlargement of the provincial legislatures suitable to the new conditions, but we would be reluctant to propose precise figures reached on *a priori* grounds. The matter should, we consider, be included within the terms of reference to the Franchise Committee, in order that the size of each provincial legislature may be decided on the basis of ascertained needs. Any substantial increase in the electorate will certainly necessitate an addition to the number of the constituencies in each province. The provincial Governments recognize the need for enlarging the legislative councils; but their general view appears to be that so large an increase as the Commission have in mind may be unsuitable to their conditions.

For the reasons given by the Commission it will still be necessary for some time that the Governor should retain a strictly limited power to nominate, but we doubt whether, when the Franchise Committee have completed their labours, it will be found necessary to give a power of nomination quite on the scale which the Commission have in view. We agree that no special provision should be made for the election of women.

25. **The disappearance of the official bloc.**—The presence of an official bloc has been a noticeable feature of the present dyarchical system, and essential to its working. We agree that with the abolition of dyarchy, the official bloc should no longer be retained. With the exception of a small nominated element, the provincial legislatures will be wholly elected; free play will be given to the formation of parties, from which we may expect to emerge correct principles of ministerial responsibility.

26. **Constituent powers.**—The question of granting to provincial legislatures constituent powers raises difficult issues, both constitutional and practical. The Commission

suggest that after ten years the provincial councils should have the power to set in train certain proposals for change by the method of " constitutional resolution ", but the changes would be limited to those affecting the electoral law. The enforcement of a constitutional resolution would be dependent on the grant of a certificate by the Governor that the resolution reflected the general opinion of the province and of any community specially affected, and would require also the concurrence of the Governor General.

We welcome the proposals of the Commission to give to the provincial legislatures this measure of constituent power. Were it practicable to do so, we would gladly enlarge its scope. But with one possible addition, to which we shall presently refer, for the creation of a second chamber, we see grave difficulties in giving this procedure any wider extension. Even within the ambit of the electoral law, the distribution by statutory provision of the balance of political power between the representatives of different communities and interests in fixed proportions immensely complicates the possible effects of electoral change. The initial dispositions will now be made under the authority of Parliament itself, after consultation with the representatives of British India assembled in meeting at the Round Table Conference. To throw open those dispositions to early revision by local authority would, from the start, invite conflict and might prejudice the endeavour to initiate a fully responsible system of Government in the provinces. It is reasonable that the electoral system set up at the beginning of the reforms should rest on the assumption that it will endure at least until new political conditions are established, after experience of the new Governments has been obtained. For these reasons we do not anticipate that Indian opinion will resent the provision that no " constitutional resolution " may be passed by a provincial legislature until after the lapse of some years from the inauguration of the new system. With regard to the scope and freedom of the constituent powers, it is clear that these must remain under some limitation, at least until the country at large is prepared to abide by what we regard as a fundamental principle of responsible government, namely, the validity of a majority decision. While, therefore, we are anxious to lose no opportunity to place within the constitution the seeds of its own growth, we agree that, subject to the addition which we have suggested above, and which we now discuss, the range of the constituent power accorded to the provincial legislatures should be as proposed by the Commission.

27. **Second chambers.**—The arguments for and against second chambers in the provinces have been fully set out by

the Commission, who have themselves not found it possible to make a unanimous recommendation one way or the other. There was a similar diversity of opinion among the members of the Indian Central Committee. Among the provincial Governments, Madras, Bombay, the Punjab, the Central Provinces, and Assam do not desire second chambers. We understand that this represents in all cases the unanimous view of both sides of the Governments, except only that in Bombay one member of Council supports a second chamber for that province. All members of the Government of the United Provinces are in favour of the establishment of a second chamber in that province. In Bihar and Orissa also the local Government, without any dissentient member, advocate a second chamber. Opinion in the Government of Bengal is divided. They state in their letter that some members are strongly in favour of a second chamber, and that the remainder are doubtful. In these circumstances the local Government express themselves as having decided to maintain the opinion in favour of a second chamber which they expressed in their memorandum to the Statutory Commission in 1929.

The matter seems to us to be peculiarly one in which regard should be had to local conditions. We would not propose that in any province a second chamber should be made a condition of advance. Where local opinion favours and local conditions seem to require a second chamber, it should in our view be set up and incorporated in the new constitution. The problem has now been fully investigated by the Statutory Commission, and we have before us the considered views of each provincial Government. Their knowledge of local conditions and local requirements is necessarily more intimate than our own. We therefore accept the recommendations of the Governments of Madras, Bombay, the Punjab, the Central Provinces and Assam that there should be no second chambers in those provinces. Similarly we accept the recommendations of the Governments of Bengal, the United Provinces, and Bihar and Orissa that in those provinces there should be a second chamber. If effect is given to their wishes, we should suggest that the manner in which the upper house should in each instance be composed in those three provinces should be left to further investigation by the Franchise Committee in the light of the suggestions which the three Governments have put forward.

While we agree that in five of the eight provinces, there should on the institution of the new constitution, be a single chamber legislature, we associate ourselves with the view expressed by the Government of Madras that future circum-

stances may create a demand for a second chamber. We accordingly accept the suggestion of the local Government that the subject should be included among those matters on which after ten years a " constitutional resolution " may be passed, and would apply the provision to all provinces, leaving it open to a provincial council to recommend the creation of a second chamber where none exists or the abolition of one that has been set up. We do not take it as certain that no provincial council will pass a resolution to substitute for a unicameral a bicameral system. The success or failure of second chambers in those provinces where they are established will, we have no doubt, materially shape political opinion in those provinces which retain a single chamber legislature at the outset of the new system. We would suggest that a resolution dealing with the creation or abolition of a second chamber should require to be supported by not less than three-fourths of the votes of the legislature instead of the proportion of two-thirds suggested by the Commission for other matters. If it were proposed to abolish the upper house, the decision might be taken in joint session, and the resolution if certified by the Governor should in our view be submitted by the Governor General to the Secretary of State and laid before Parliament for its approval.

The suggestion of the Commission to set up a small expert revising body to which legislative proposals could be submitted between the report and the third reading stages has attracted little support.

28. **The franchise.**—We agree with the Commission that with the establishment of responsible Cabinets in the provinces, the present franchise for the provincial legislatures will be too restricted. We accordingly accept their recommendation that there should now be such extension of the franchise as is reasonably practicable, and that the investigation of this matter should be entrusted to a specially constituted Franchise Committee under an impartial and experienced chairman. The arguments used* by the Commission leave no room for doubt that the immediate adoption of adult suffrage is wholly impracticable. The precise extent to which the franchise can now be widened is a matter on which, in our opinion, it is not possible to form conclusions until the problem has been investigated by the Franchise Committee.

There is under the present system no uniformity of the franchise qualification in the different provinces ; and it is clear that while the franchise continues to rest for the most part on a property qualification directly related to land revenue payments, no precisely uniform system is possible.

*Volume II, para. 105.

The views expressed by the provincial Governments suggest that the extension of the franchise may well be greater in some provinces than in others. The Government of Bombay consider that the franchise should be widened to the extent of trebling the electorate, but this is further than most provincial Governments are prepared to go. Some indeed enter a caution against the too rapid enfranchisement of ignorant and illiterate voters simultaneously with the introduction of a new system of government. Our general view is that it might be unwise to tie down the Franchise Committee to any pre-arranged percentage of enfranchisement. We would be glad if it were found possible, from province to province, to reach the enfranchisement of 10 per cent. of the total population recommended by the Commission, but we would leave the Franchise Committee free, for valid special reasons which they may find to exist, to adjust their recommendations to local conditions.

In the course of their investigations the Committee should be directed to examine in each province the feasibility of introducing an additional qualification based on education. The Commission's suggestion of this new qualification has received a considerable measure of support from some provincial Governments, but from others has not escaped criticism. For example, the Governments of the United Provinces and the Punjab question the soundness of the qualification ; and though it may be suitable in some provinces, it is possible that it may not be appropriate in all.

The Commission recommend that the Committee should be instructed to have due regard to the respective claims of urban and rural areas, and to the rights of women as well as of men. It is further suggested that the Committee should devise such qualifications as would secure as far as possible the same proportion of voters to population in different communities. At the same time the Commission deprecate different sets of qualifications for voters of different religions or races. We have no doubt that the Franchise Committee will keep these important considerations in view. The Committee will not however be able to treat as first principles both these recommendations, namely, that there should be in each community the same proportion of voters to population, and that the franchise qualification for all communities should run on the same level. In some cases their results may be found to be mutually contradictory, and we anticipate that some adjustment by compromise will be needed in their application. It has been remarked on past occasions that, after religion and race, the boundary between town and country is

the greatest dividing line that runs through the Indian people. In more than one province the Committee may find that some readjustment is necessary of the present representation respectively of urban and rural areas and we attach great importance to securing genuine and effective representation of rural interests. With the broader aspects of female suffrage we shall deal in our next paragraph.

In agreement with the provincial Governments, we would prefer that Parliament should not commit itself to the appointment after fifteen years of a second Franchise Committee.

29. **Female suffrage.**—In the first volume of their report the Commission devote a separate chapter to the increasingly important part now being played by the women of India in social reform and generally in public affairs. They consider that the women's movement holds the key of progress and observe that the results it may achieve are incalculably great. This estimate of the importance of the women's movement leads the Commission to conclude that India cannot reach the position to which it aspires in the world until its women play their due part as educated citizens.

The suggestions for the enfranchisement of women made by the Commission in the second volume of their report follow directly from the conclusion which they reach in their first volume. The Commission observe* that while provincial legislatures in exercising the option allowed to them of enfranchising women on the same terms as men have made a gesture of high significance, it has remained only a gesture, because few women in India own property in their own right. In consequence, under the present franchise the proportion of women as voters is still extremely low. In order to correct their proportion the Commission recommend the addition of two special qualifications for women voters ; namely, being the wife over 25 years of age of a man who has a property qualification to vote ; and, secondly, being a widow over that age whose husband at the time of his death was so qualified. In addition, under the Commission's scheme, women over 21 years of age who possess the suggested educational qualification would also be enfranchised in their own right.

These suggestions have called forth much criticism and we doubt whether they would be acceptable to any considerable section of opinion in the country. The arguments against the Commission's proposals have been well set out in the report of the Government of the United Provinces, in

*Volume I, para. 203.

which it is suggested that in the existing conditions one practical result of the proposal would be to give to the family of the low caste Hindu voter, whose wife is able to go to the poll, a second vote; and thus give them twice the voting power of many of the higher castes, and also of many of the Muslims, whose wives would be debarred from recording their votes by the operation of social custom. At the time of the last reforms the enfranchisement of women was considered by the Joint Select Committee of Parliament, who felt that it was not desirable that they should attempt to settle the question themselves. Their view was that the enfranchisement of women goes deep into the social system and susceptibilities of India, and is therefore a question which can only prudently be decided in accordance with the wishes of Indians constitutionally expressed. It was in pursuance of that view that provision was made in the electoral rules of each province leaving the decision on female suffrage to the provincial legislature. In their replies to the present reference the majority of provincial Governments have taken somewhat the same line. We agree with them that it would be unwise to attempt to force upon India measures for the enfranchisement of great numbers of women. We suggest, therefore, that this matter should continue to be left to the decision of the provincial councils, and we consider that the subject can well be dealt with by them in the constitutional resolution to which we have referred. So long however as the principle set out by the Joint Select Committee of Parliament is maintained, we think it to be a proper course that the suggestions of the Commission for the special enfranchisement of women should be further investigated by the Franchise Committee.

Communal representation.

30. **The Hindu-Muslim impasse.**—The problem of communal representation has been rightly described by the Commission as a highly controversial and most important subject. On its solution will depend in no small measure the success or failure of the new constitution.

The Commission's report contains a carefully prepared and closely reasoned examination of the issues at stake. The conclusion reached is that in the absence of agreement between the Hindus and the Muslims, the Commission* "are compelled to assume in this matter, a continuance of separate communal electorates". If there are to be communal electorates, the outstanding question left for decision is the proportion of seats in the various provincial councils to be set aside for Muslim members. After expressing a hope that a

*Volume II, para. 75.

renewed effort will be made between the two communities themselves to reach an accommodation, the Commission offer several general expressions of their opinion. They hold that in view of the weakness of the Muslim minority in six out of the eight provinces, the present scale of weightage in favour of Muslims in those six provinces may properly be maintained. On the other hand, the Commission range themselves definitely against the full claim put forward by the Muslim community that, while retaining their weightage in the six provinces, the present proportion of seats secured to Muslims by separate electorates in Bengal and in the Punjab should be enlarged to figures proportionate to their ratio of population. Seized with this dilemma, the Commission offer the Muslim community a choice between two alternatives; either, so it would appear, representation on a basis of their population in Bengal and the Punjab, but with the loss of their weightage in the six provinces; or joint electorates by mutual consent in Bengal and the Punjab and the existing scale of weightage elsewhere. There has been no indication hitherto on the part of the Muslim community of any disposition to accept either of the two alternatives suggested for their consideration by the Commission. Nor has the community given any support to the scheme outlined in appendix VIII of the report for substituting for communal electorates a plan which purports to combine joint electorates with the exclusion of candidates unacceptable to the community affected.

While the Commission hold the view that, in the absence of agreement between Hindus and Muslims, communal electorates must remain, the majority of the Indian Central Committee believe that wider considerations must override the wishes of particular communities, and recommend that communal electorates should be abolished. Their proposal is that in provinces other than Bengal seats should be reserved in joint electorates either on a population basis or on their voting strength, whichever may be more favourable to them, and that they should be permitted to contest other seats in general constituencies beyond the number actually reserved for them. The Committee proposed that in the Punjab the Hindu and Sikh minorities should be given the privilege which they recommended for Muslim minorities elsewhere. But for Bengal they suggested that there should be no separate electorates and no reservation of seats, and that the two communities should vote together in a joint electorate. These majority recommendations of the Committee were extremely distasteful to two out of the three Muslim members of the Committee, and drew from them a vigorous minute of dissent.

Lastly, we take this opportunity to refer to the solution put forward in the Nehru report, whose authors took the line, first, that separate electorates must be completely discarded as a condition precedent to any rational system of representation ; second, that the reservation of seats for majority communities is indefensible ; and, third, that for Muslim minorities there should be reservation of seats, when demanded, in strict proportion to their population, with the right to contest additional seats for a fixed period of ten years. This solution was no more successful than other expedients which have been proposed ; and its failure to attract Muslim support was one of the reasons why the Nehru report was subsequently disowned by its own promoters.

Since the publication of the report of the Statutory Commission little progress has been made by way of negotiation between the two communities. We recognize the need for an agreed solution, and would be reluctant in this despatch to write anything that might hamper agreement between the representatives of the two great communities themselves. At the same time we cannot disguise from ourselves that the prospects of agreement seem remote. When the last reforms were introduced, the Lucknow pact held the field, and throughout the proceedings of the Joint Select Committee was given binding force. That pact is no longer acceptable to either party ; and if the decision of the problem be left to Parliament, unaided by agreement between the parties, no easy solution can be found on the lines of a maintenance of the *status quo*. The change effected by the withdrawal of the official bloc is also important, and brings the communal question into greater prominence, for with the disappearance of the neutral element communities are driven to rely exclusively on their own representation. Their relative strength, therefore, becomes a matter of still closer interest.

We do not propose to traverse the arguments, theoretical and practical, against communal electorates. We are fully conscious that separate communal representation assumes a special significance as the responsibility of the executive to the legislature grows more complete. At the same time in agreement with the Statutory Commission and with every provincial Government, we are constrained to the opinion that the privilege which they now possess cannot and should not be taken away from the Muslim community against their wish. In provinces other than Bengal and the Punjab, every provincial Government agrees that Muslims should retain their existing weightage if they desire it, and with this expression of opinion we agree. With regard to Bengal, the local Government state that there is irreconcilable dis-

agreement between their Hindu and Muslim members. The European members of the Government have come to the conclusion that representation on the basis of population is the fairest method of distributing the seats in the general constituencies ; and that any weightage that is to be given to the non-Muhammadans in respect of their wealth, education or position should be allowed for in the special constituencies. In the Punjab the position is singularly complicated owing to the rival claims of the three communities ; the Muslims, the Hindus, and the Sikhs. The official members of the Punjab have worked out a carefully balanced scheme for the composition of the new provincial council, which gives the Muslims a majority of two over Hindus and Sikhs combined, and a proportion of 49 per cent. of the house as a whole. The scheme satisfies neither the Muslim nor the Hindu nor the Sikh members of the Government, but in our view merits consideration, subject to remarks which we shall presently make.

On the more general aspects of this baffling problem, we consider that it may be a legitimate grievance to deprive Muslims in the Punjab and Bengal of representation in the councils in proportion to their population merely because of the weightage allowed to Muslim minorities elsewhere. At the same time we appreciate the objections to communal majorities in the legislature guaranteed on a population basis at the wish of a majority community through communal constituencies. Various suggestions have been put forward for meeting these objections. Assuming legislatures returned from general *plus* special constituencies, it has been suggested that in Bengal and the Punjab the general communal constituencies should be so distributed as to give no community by that means alone a clear majority in the legislature as a whole. The majority community could be given communal constituencies on the population basis, provided they did not constitute a majority in the legislature, to obtain which it would have to succeed in returning members in elections to some, at least, of the special non-communal constituencies. Another suggestion is that put forward by the official members of the Government of the Punjab to which we have already referred, where the Muslims though having a majority of two over Hindus and Sikhs combined would not command a majority in the house, the balance consisting of two seats allotted to Europeans and one each to Indian Christians and Labour. A third suggestion is that communal discriminations though applied to electors should not extend to candidates. Thus a Hindu would be eligible under the electoral rules to represent a Muslim constituency and *vice versa*.

The existing differences between the voting strength and the numerical strength of the various communities lie

at the root of the present difficulties. When with the extension of the franchise these differences disappear and the voting strength more correctly reflects the population, the justification for communal electorates for majority communities would cease. The perplexity which now presents itself of deciding between the apparently irreconcilable claims of rival communities would have passed away. In this view the adjustments now to be made may be regarded as serving what we hope is merely a temporary purpose. We agree, as already stated, that the privilege of communal electorates where they now exist should not be taken away without the consent of the community concerned, and that such consent should require the votes of two-thirds of the members in the legislature of the community concerned. But we attach importance to providing machinery in the Act for the disappearance of such electorates and for their future replacement by normal systems of representation more suited to responsible self-government on democratic lines.

31. **The representation of the Sikhs.**—We have referred briefly in the preceding paragraph to the bearing of Sikh representation on the adjustment of communal proportions in the Punjab legislative council between the Hindus and the Muslims. The problem arises only in the Punjab. In no other province are the Sikhs given separate representation. Their communal electorates in the Punjab date from the last reforms. The authors of the Joint Report, whose condemnation of communal electorates is well known, made an exception in the case of the Sikhs on the ground that in the Punjab they are a distinct and important people, who supply a gallant and valuable element to the Indian army, but who are everywhere in a minority and for that reason go virtually unrepresented. They accordingly proposed to extend to the Sikhs, and to the Sikhs alone, the system already adopted in the case of the Muslims. The Sikh claim was specially considered by the Franchise Committee of 1918-19 and they were given 12 out of 94 seats in the Punjab legislative council. They have consistently expressed dissatisfaction with this proportion, and Sikh leaders have adhered to a claim that they should have not less than 30 per cent. of the total seats. The present position, as we understand it, is that the Sikhs are prepared to accept joint electorates provided that the Muslims agree, but that if communal electorates are retained in any province they should be assured in the Punjab of representation on the basis at least of their voting strength. As the voting strength of the Sikhs on the present property qualification is considerably in excess of their proportion of the population, this claim could be accepted only at the expense of the Muslims or the

Hindus. The proportion given in the scheme prepared by the official members of the Government of the Punjab, though higher than the population basis, is less than the voting strength of the Sikh community. In his minute of dissent the Sikh Minister of the Punjab has expressed a warning that the arrangement proposed by the official members is not acceptable to two powerful communities, and that they are not prepared to surrender on the point. Put in its crudest form, the claim made by the Sikhs is that the British conquered the Punjab, not from the Muslims, but from themselves; and that if responsible self-government is now introduced, they will not submit to a system which places the Muslims in a permanent majority over both Hindus and Sikhs combined. We have given careful consideration to these difficulties, but so far as the Sikhs are concerned are unable to propound any better solution than that put forward by the official members of the Government of the Punjab.

32. **The representation of Europeans.**—With the other classes of communal representation we can deal more briefly. There can be no doubt that for the representation of Europeans their existing separate electorates must be maintained. We accept the principle that their representation should, if possible, be in its present proportion, and in provinces where they at present rely on nomination they should, in our view, if this be found practicable, be returned by their own electorates.

33. **The representation of Anglo-Indians.**—We agree that as regards the number of Anglo-Indian seats the object in view is to secure to the community an adequate opportunity of making its views known in the legislature through suitable representatives; and that no question arises of trying to allocate seats on the basis of such factors as population and political influence. The community is faced with very special problems of its own. Its main interests may be summed up as entry to the services and educational facilities. So far as concerns the former the field of employment which is of particular interest to the Anglo-Indians is to be found under the central Government, especially in the Railways and the Telegraph department, and in a later passage we refer specifically to the possibility of giving such protection as may be practicable to their position on the railways. But their educational problems fall within the provincial sphere, and we regard it as important that they should be enabled, particularly from this point of view, to make known their needs and their case. Subject to further investigation by the Franchise Committee, we are disposed to accept the suggestions of the Commission for increasing the total number of

seats allotted to Anglo-Indians, and to think that wherever possible their representation should for the present be by separate electorates.

34. **The representation of Indian Christians.**—The Commission state themselves to have been impressed by the fact that a representative deputation of Indian Christians which met them in Delhi evinced their readiness to be merged in general electorates, and for that reason they have recorded a decided preference for the reservation of seats in the case of Indian Christians in place of separate electorates. The present position is that Indian Christians have separate electorates in the Madras Presidency where the community is particularly strong and returns five members ; everywhere else any representation they have is by nomination. From representations made to us since the publication of the Commission's report, we understand that the Indian Christians of Madras are far from willing to surrender their separate electorates, and we endorse the view of the Government of Madras that the community in that province should not be deprived of its privilege without its consent. Provincial replies indicate that in some provinces reservation of seats may present considerable difficulties, and that where separate electorates cannot be formed, the Indian Christian community may still need to rely for its representation on nomination by the Governor.

35. **The representation of the depressed classes.**—The suggestions made by the Commission for the representation of the depressed classes have been much criticized by the provincial Governments. The difficulty of framing for each province a definition of the " depressed classes " is probably inherent in any scheme for the special representation of this class other than by nomination ; but the Commission's proposals place a peculiarly embarrassing duty on the Governor to certify candidates authorized to stand for the depressed classes ; and the proportion of representation which the Commission suggest, namely, in the ratio of three quarters of the proportion of the depressed classes population to the total population of the electoral area of the provinces, seems likely to be unduly high. The Government of the United Provinces have calculated that in that province the Commission's proposal would result in the return to the provincial legislature of no less than forty members in place of the single nominated member who at present represents the community. The whole problem of the representation of the depressed classes will require careful investigation by the Franchise Committee ; and at this stage we only wish to make plain that in our view their adequate representation should be secured by the best means that may be found practicable. Though there are some

differences of opinion within the community, recent meetings of depressed classes associations have re-affirmed their belief in separate electorates.

36. **The representation of non-Brahmins in Madras.**—We agree that the reservation of seats for non-Brahmins in Madras is no longer necessary.

37. **The representation of Mahrattas in Bombay.**—The recommendation of the Commission is that the time has not yet come for the abolition of reserved seats for Mahrattas ; but that it may be possible to abandon reservation in some of the constituencies in which seats have hitherto been set aside for the Mahratta community. The local Government have expressed no opinion, and, pending further examination by the Franchise Committee, we retain an open mind.

Special representation.

38. **The universities.**—We come now to special, as distinct from communal, representation. The Indian university seats date from the time of Lord Dufferin ; when they were instituted in the anxiety to make use of any corporate body of opinion that then existed. When the present reforms were introduced Lord Chelmsford's Government found some difficulty in reconciling themselves to their retention. The Statutory Commission, though with considerable hesitation, recommend that they should be preserved, but the number of seats should not be increased. All provincial Governments, except the Government of Bihar and Orissa, agree in retaining university representation, and the same view is taken by the Indian Central Committee. In face of this evidence we are prepared to accept the continuance of special university representation, but we take the opportunity to express agreement with the suggestion of the Indian Central Committee, which is supported also by the Governments of Madras and of Bengal, that in order to secure a more adequate representation of learning and the return of representatives possessing special academic qualifications, the franchise in these special constituencies should not extend to graduates generally, but should be confined to members of the Senate or the governing body. We would observe that this change would not disfranchise the general body of graduates, who may be expected to retain their votes in general constituencies, even in the absence of the new literary franchise qualification which the Commission have proposed.

39. **The great landholders.**—The Commission deal at some length with the special representation of the great landholders, and come to the conclusion that since persons possessing the special franchise qualifications prescribed for

landholders' constituencies have been returned in considerable numbers for general constituencies, their special representation is no longer required and should be abolished. The recommendation of the Statutory Commission conflicts with the view expressed by the Indian Central Committee that this class of special representation should be retained. Every provincial Government, except the Government of Assam where there is no special representation of landholders, agrees with the Indian Central Committee, and considers that the special representation of the great landholders is still needed in view both of the position of that class in the country and of the steadying effect which it is likely to have in the new legislatures. The suggested abolition of their special representation has been received with feelings of resentment and dismay by the great landholders themselves, and one of the first steps which they took on learning of the proposal was to form a representative delegation to present to His Excellency the Viceroy an address, containing a weighty protest against the withdrawal of their present privilege. Particular objection has been taken by the landlords themselves to the suggestion made by the Commission that, in the event of their failing to secure representation equivalent to the present number of their special constituencies, their representation should be obtained by nomination.

We have ourselves no hesitation in holding that this form of special representation should continue. Both the arguments and the statistics used by the Commission might to our mind have been used with equal effect to destroy the special representation either of commerce or of the universities, both of which the Commission retain. We have no reason to think that there was any intention on the part either of the authors of the Joint Report or of the Franchise Committee, over which Lord Southborough presided, to restrict the landholders to representation by their special constituencies. On the contrary, there were at the time frequent expressions of the view that their entry into political life should be encouraged. The success in general constituencies of persons possessing the special landlord qualification can rightly be regarded as a healthy sign of a greater readiness on the part of a conservative class to recognize their obligations and take up political responsibilities under an increasingly popular system of Government. But prejudices still survive, and unless special constituencies are retained, many leaders of this important class may still be unwilling to expose themselves to the hazards of election by general constituencies ; and those landholders who are elected by general constituencies may prove to be unrepresentative of the landholding interest.

Such questions as tenancy and land revenue measures may be expected to occupy more prominently the attention of the provincial legislatures in the near future, and in the controversies likely to ensue the landlords can reasonably claim that they should not be deprived of their special representation, at a time when the extension of the franchise may well increase the difficulty of their securing representation on a general register.

We do not commit ourselves to the acceptance of any principle that in the new legislatures the special representation of the great landholders should be proportionate to their present scale. One difficulty in accepting a principle of that kind is that the electorates for these special constituencies are necessarily small, and cannot be widened by a lowering of the qualification without destroying the value of the representation given. The general view of the provincial Governments is that there should be some increase in the number of landlord seats. The Government of Bombay and the Government of the Punjab each suggest one additional seat to the present representation of landholders in those provinces. In Bengal the extent of the representation of landholders in the lower house may depend upon the establishment of a second chamber, and similar considerations may govern the special representation of landholders in the United Provinces and in Bihar and Orissa. The precise extent of their representation is therefore clearly a matter for investigation by the Franchise Committee. But on the broad issue whether or not there should be special constituencies for the representation of the great landholders, we have no hesitation in accepting the view of the Indian Central Committee and of the provincial Governments that they should be retained, both in the central and in the provincial legislatures.

40. **Commerce and industry.**—We endorse the proposal of the Statutory Commission that the special representation of commerce and industry should be preserved. We see no reason to differ from the detailed recommendations which some provincial Governments have made in this matter.

41. **Labour.**—The special representation of labour is an exceedingly difficult problem. When the present reforms were introduced, schemes were drawn up by the Governments of Bombay and Bengal in response to a recommendation of the Joint Select Committee of Parliament to form special constituencies for wage-earners in the cities of Bombay and Calcutta. On further consideration the Joint Select Committee of Parliament decided that it would be impolitic to persist in an experiment which those best qualified to judge regarded with considerable misgivings, and in

consequence the representation of labour was left to nomination by the Governor, six seats being set aside for that purpose, and distributed between the provinces of Bombay, Bengal, Bihar and Orissa and Assam.

The problem was next considered in 1924 by the Reforms Enquiry Committee which recommended that the representation of factory labourers in the provincial councils should be increased, and that the local Governments should be asked to formulate proposals. The Committee expressed the opinion that, if possible, representation should be by election. On examination it was not found possible to introduce an elective system in any province, and the action ultimately taken on the Committee's recommendation was merely to add four nominated seats, two in Bombay, one in the Punjab and one in the Central Provinces, giving a total of ten seats in the nine provinces including Burma. It was recognized at the time that criticism might be directed to the fact that the only response to the recommendation of the Committee was to increase from six to ten the number of seats definitely assigned to the representation of labour in a country which claims a prominent place in the industrial countries of the world and whose legislatures are avowedly designed to give separate representation to separate classes of interests. It was felt however that in spite of the actual and potential importance of India as an industrial factor in the world's economy, her workers were not then sufficiently organized or sufficiently differentiated in aim or outlook from the general population to warrant the creation of artificial means whereby they might be provided with representatives in the legislatures. The conclusion therefore in 1926, as in 1920, was that all that was necessary or possible was to enable the point of view of the still immature workers' organizations to be effectively voiced by competent exponents who had made it their special study.

The Indian Central Committee have recognized that unorganized labour must remain unrepresented until the franchise has been lowered to a sufficient degree to enable them to win representation in the general constituencies; but, holding the view that India is on the threshold of a great industrial development, they regard it as of the highest importance that means should be provided by which organized labour may be enabled to make its wants known in the legislatures through representatives of its own. The Committee accordingly proposed to set apart eighteen seats for the representation of organized labour in the eight provinces and recommended that in Bombay four seats should be reserved for labour in four general constituencies, and that in the

other provinces representation should be by separate electorates.

The Statutory Commission proceed with greater caution and, Major Attlee dissenting, suggest that, pending further investigation by the Royal Commission on Labour in India, in every province the Governor should have the duty of drawing up rules for securing labour representation by the means which in existing circumstances are the best available. If the Governor finds that for the present he must still resort to nomination, he should consider whether there are suitable labour organizations which he might consult before making his choice.

We accept the principle that the special representation of labour should remain, at least until such time as with the extension of the franchise the great majority of their numbers qualify for a vote in the ordinary constituencies. We would prefer that their representation should where possible be by election ; but are bound to admit that the possibilities of this still seem remote. Three provincial Governments, namely, those of the United Provinces, the Punjab and Assam, make it clear that they see no present alternative to nomination. We are ourselves reluctant to throw the whole burden of decision on the Governor in person and would recommend that the problem should be further examined by the Franchise Committee, before decisions are taken either as to the mode or the extent of labour representation on the new councils.

Provincial executives.

42. **Unitary Cabinets.**—We accept the recommendations of the Statutory Commission that the provincial Cabinet should be unitary with every member accepting responsibility for the whole policy of the provincial Government. We agree that provision should be made that the only vote of censure which could be proposed would be one against the ministry as a whole carried after due notice. We also endorse the suggestion that the existing scale of salaries should be alterable only by a provincial statute.

43. **Official ministers.**—More difficult questions arise out of the suggestion that when forming his Cabinet the Governor acting under the superintendence and control of the Governor General, should decide whether or not to include in it one or more non-elected persons. The Commission propose that such persons, if included within the Cabinet, should become *ex-officio* members of the legislature and they have indicated* that they would, so they conceive, ordinarily be experienced officials.

There is some variety of view in the reports of the provincial Governments on this proposal. The Government

*Volume II, para. 48.

of Madras would provide that no person other than an elected member of the legislature should be appointed to the ministry except on the recommendation or with the consent of the chief minister. The Government of Bombay would exclude ministers appointed from outside the council on the ground that their inclusion would be contrary to the principle of responsible government. There are differences of opinion among the members of the Government of Bengal; some favour a statutory rule requiring the presence of an official in the ministry; others prefer to leave it to the discretion of the Governor; and others again are opposed to any official element in the Cabinet. On the other hand all members of the Government of Bengal are agreed that, save an official, no person who is not already a member of the legislature should be eligible for inclusion in the ministry. Some go further, and would make nominated members ineligible. The Government of the United Provinces have made an exceedingly interesting examination of the implications and possible consequences of an official minister in the Cabinet. His Excellency the Governor and the service member of his council favour inclusion, but the other members of the Government consider that a principal secretary would be more in keeping with the general scheme of the new constitution. All members of the Government of the Punjab, official and non-official with the exception of one minister, would specifically exclude any official minister. In the course of their comments the official members of the Government state that this is a feature of the proposed constitution which has been specially singled out for attack, and that it has been and will be used as an argument to prove that the responsibility of the Cabinet is intended to be unreal. In order that no ground should be left for this allegation, the official members of the Government of the Punjab are prepared to abandon any official element in the future Cabinets, provided that other provision be made to secure to the Governor the advice which he will need. A very similar line of reasoning is found in the letter of the Government of Assam, who state that the mere retention in the hands of the Governor of the power to appoint an official is likely to be misunderstood and to engender suspicions detrimental to the acceptance and working of the new constitution. The Government of Bihar and Orissa hold that owing to difficulties in its operation the appointment of an official minister will be the exception rather than the rule, and that this device for making official experience available for the ministry and for the Governor will not ordinarily be effective. They would, however, accept the provision in the discretionary form suggested by the Commission to meet exceptional circumstances, for instance, the temporary appointment of an official to avoid an

interregnum. The preponderance of opinion in the Government of the Central Provinces is that all members of the Cabinet should be chosen from the legislature.

The suggestion that the appointment to the Cabinet of one or more officials should be discretionary with the Governor has certainly been distasteful to Indian opinion, and we are impressed by the general consensus of opinion in the replies of the provincial Governments that an official minister would be difficult to maintain in office against the wishes of his colleagues and would be ineffective. We have no hesitation in holding that there should be no statutory requirement for the inclusion of an official in the provincial Cabinets, or in the Cabinet of any particular Governor's province. We would be reluctant, however, to depart from the recommendation of the Commission that there should be a discretionary power with the Governor to make such appointment should circumstances so require. We can conceive a situation arising in more than one province in which ministers may welcome an official colleague possessing wide administrative experience, and in times of communal tension ministers may themselves wish to place a particular portfolio in the charge of an official, whose impartiality would be above suspicion. In Bengal there is the risk, to which the local Government refer, that it may be difficult to find non-officials willing to take on themselves the responsibilities for law and order in the province. We have no doubt that, before appointing an official, the Governor would first have informed himself fully of the probable attitude of the other members of the Cabinet, and on the whole we think it likely that an official member would seldom be appointed, and that, if appointed, his appointment would rest on general consent. But for the reasons which we have given we agree with the Commission that the Governor should be free to exercise discretion in the matter. A suspicion exists that the appointment of officials may be used to restrict the scope of responsible self government, but we have endeavoured to explain that, in our view of the use which the Governor will make of his discretionary power, such suspicion is unfounded. If, however, it was thought desirable, we would agree to a suitable provision on the point being inserted in the Instrument of Instructions to Governors.

One of our colleagues, however, finds himself unable to accept the position which we have adopted on this matter, and considers that the Governor should possess no power to appoint official ministers, whose presence in the Cabinet our colleague finds himself unable to reconcile with the principle of joint responsibility.

44. **Non-elected non-officials.**—With regard to the inclusion in the Cabinet of non-official non-elected persons, we consider that objections can be met by provision on the lines of sub-section (2) of section 52 of the present Government of India Act that, save an official, no minister shall hold office for a longer period than six months, unless he is or becomes an elected member of the legislature.

45. **Communal representation in the Cabinet.**—Minority communities attach great importance to securing representation in the Cabinet, and disappointment has been expressed at the conclusion* reached by the Commission that it is impossible to have any rigid and formal provision in the matter. The claim that Muslims should be guaranteed Cabinet representation was put forward as one of the demands of that community in the resolution of the all-India Muslim Conference which met at Delhi, on the 1st January 1929, and the counterpart to the Muslim demand is found in claims put forward, for instance, on behalf of Hindus and Sikhs in the Punjab. The problem is discussed at some length in the letter of the Government of the United Provinces, and interesting references to the attitude of the Sikhs and of the Hindus in the Punjab will be found in the minutes of the Hindu and Sikh Ministers respectively of that province.

We agree that for the reasons which the Commission have given it will be difficult to make statutory provision guaranteeing representation in the Cabinets to minority communities. The view which we take is that in practice the desire for peaceful administration will in the natural course of events lead the majority to enlist representation from other communities in the formation of the Cabinet, and further inducement in the same direction will be derived from the parliamentary value of minority groups. We believe, therefore, that where the minority is influential and commands support in the legislature, it will be able with some confidence to count upon Cabinet representation ; where the minority is small, the prospect of its representation must necessarily be more doubtful. We do not fail to recognize the strength of minority apprehensions regarding the composition of the new executives and for that reason we are prepared, if no other means of meeting these apprehensions can be suggested, to give a general support to the suggestion put forward by the Government of the United Provinces that the Instrument of Instructions to the Governor should include an obligation to attempt to secure representation of a minority community

*Volume II, para. 55.

in the Cabinet, where such minority is in his opinion of sufficient importance to warrant it.

46. **The chief minister.**—It follows that we do not contemplate leaving the selection of ministers to a chief minister. The formation of the Cabinet must be recognized to be a responsibility imposed by the constitution on the Governor. The position has to our mind been correctly stated by the Statutory Commission. We share with the Commission the expectation that there will ordinarily be a chief minister whom the Governor would consult before appointing other ministers. But the minority problem makes it essential that there should be no constitutional requirement for the appointment of a chief minister in all provinces. The misgivings of the minorities would be immensely aggravated if the function of the Governor were to be limited to selecting a chief minister and leaving to him the choice of his colleagues. That method might be found appropriate in some provinces where the minority problem is not acute and where political conditions are comparatively advanced, and we have no doubt that there, while the constitutional responsibility will continue to rest with the Governor, the precise relationship between the Governor and the chief minister in the formation of the Cabinet would rapidly come to be governed by conventions locally established. In other provinces where conditions may be less favourable, public feeling may require that the selection of each member of the Cabinet patently rests with the Governor alone, though exercised, as it must inevitably be, after he has first informed himself of the state of political opinion and the relative position of the various parties in the legislature. In such provinces we anticipate that Cabinets may for some years to come require to be formed definitely on coalition lines.

47. **The Cabinet secretary.**—The improbability on which we have remarked that reliance can be placed on the presence in the provincial executives of official ministers has directed increased attention on the part of the provincial Governments to the suggestion made by the Commission* that there should be established a post of secretary to the Cabinet held by a civil servant who would not only be responsible for keeping the record, but would have direct access to the Governor. The official members of the Government of the Punjab have taken up this suggestion, and give it prominence as a condition of their assent to the abandonment of official ministers. They contemplate a principal secretary who would also be the Cabinet secretary, but with enlarged functions and in close

*Volume II, para. 51.

touch with the Governor, the ministers and all departments of the secretariat. Similar support is given to the proposal by those members of the Government of the United Provinces who do not favour an official minister. On the other hand, the Government of Madras, while they support the appointment of a Cabinet secretary, place him definitely under the control of the chief minister and allow him no access to the Governor without the knowledge of the ministry. In other provinces recognition of the need for supplying the Governor with competent official advice has produced suggestions which, while they coincide in their intention, differ in their form. The Government of Assam advocate the appointment of a financial adviser of high standing, who would be the head of the Civil Service and outside Cabinet. The view personally expressed by His Excellency the Governor of Assam is that he regards the presence of a financial adviser as a necessary condition for the establishment of a fully responsible Cabinet, and that it is only on the understanding that such an appointment would be guaranteed that he is able himself to recommend for Assam the appointment of a ministry entirely drawn from the legislative council. The suggestion is put forward not only on the ground that it will be necessary to supply expert advice on financial and revenue matters to individual members of the Cabinet or the Cabinet as a whole, but to ensure that the Governor shall be able to rely on administrative experience of a high order in the event of a breakdown, and to secure the efficient working of the permanent civil service. The views of the Government of the Central Provinces tend somewhat in the same direction. They hold that the need for expert advice to the ministry and the advantage of having an official of standing in close touch with the Governor and his ministers are patent. They suggest that the best plan for securing this advantage will be to arrange for a financial or revenue adviser or Commissioner, who might attend Cabinet discussions when his presence was desired by the Governor or the ministers, and they believe that such a plan would be preferable to that of a Cabinet secretary standing in some special relation to the Governor. The Government of Bengal support the Commission's proposals for the appointment of a Cabinet secretary, but recognize that the Governor may still be left in ignorance of important facts affecting the administration. They suggest that the Governor should have an expert adviser on his personal staff. The need for supplying the Governor with special official assistance in the discharge of the onerous responsibilities which will pass to him under the new system is nowhere more strongly expressed than in the letter of the Government of Bihar and Orissa. The duties likely to

fall to the expert adviser are discussed, and His Excellency the Governor presses for an appointment of that kind, to ensure that the Governor is in a position to carry out his duties.

Through these comments there runs a double line of thought. The first takes the point that the Cabinet itself will require assistance not only for the maintenance of its record, but also that the members may have the benefit of past experience of Cabinet administration secured by a continuing post. The second line of thought relates to what we regard as a distinct problem, namely, the necessity of giving the Governor the assistance of experienced advice, more particularly for the due exercise of his overriding powers.

Of these two requirements the first could, in our view, be met on the lines suggested by the Commission for the appointment of a Cabinet secretary. Such an officer would, as the Commission propose,* " have direct access to the Governor, so that, whether His Excellency was present at a given meeting or not, he would be kept impartially and fully informed of the course of business ". He would, as in England, be the servant of the Cabinet ; his function would be to assist the Cabinet in the discharge of its duties and, though it would of course be open to him to approach the Governor on any matter, he would not do so without the cognizance of ministers.

48. **Official advisers to the Governor.**—We recognize the need which Governors will feel for experienced advice in the exercise of their overriding powers. There may be special circumstances in some provinces requiring special treatment, but, as a general practice, we contemplate, and to this we attach importance, that the various secretaries to Government will continue to have access to the Governor. We anticipate that ministers will themselves approve this continuance of the present practice but will expect, and in our opinion reasonably, that they should be kept informed of any communications made to the Governor by their secretaries. We are indeed doubtful whether it is possible in this matter of supplying the Governor with experienced advice to make precise or specific provision. The Governor must be free to obtain advice from any source that he may select, and much will, of course, depend on the Governor's own personality. We would assume that the local practice which may vary from province to province would grow and develop in such direction as local circumstances may render appropriate.

* Volume II, para. 51.

49. **The overriding powers of the Governor.**—It is generally recognized that for the reasons given by the Commission* it would be neither practicable nor desirable at once to create the position that the Governor should be bound on all subjects by the advice of his ministers. The need for overriding powers is admitted by all who appreciate the ultimate responsibilties, which Parliament must still retain for the administration of Government in the provinces, and not the least of relevant considerations is the reliance which the minority communities will repose in the Governor for their protection.

Under the present constitution the powers of the Governor to override his ministers are theoretically unrestricted. With the exception of the Governments of Bombay and of the Central Provinces all the provincial Governments accept the views expressed by the Commission, first, that in the new provincial constitutions the Governor should, on the administrative side, be given statutory power to direct that action should be taken otherwise than in accordance with the advice of his ministry only for certain specified purposes ; and, second, that in all such matters the Governor should be subject to the superintendence, direction and control of the Governor General. Similarly it is agreed that the purposes for which the Governor is given overriding powers should be statutorily expressed.

The view taken by the Government of Bombay is that, while the Governor appears to be the only authority to whom overriding powers can be entrusted, his responsibilities are so great that with him must remain all powers not expressly transferred to the ministry and to the legislature and that it might be preferable not to embody these powers in the rigid language of the statute. On the other hand, the argument developed by the Government of the Central Provinces questions the use of overriding powers over the normal administration of a ministry, and suggests that they should be left vague so as to cover only the obligations imposed on the Governor by his Instrument of Instructions.

The view which we are disposed to take is that the overriding powers of the Governor should be defined in the statute, but that no closer definition should be attempted than is made

---

*Volume II, para. 49.

by the Commission.* If the powers were to be so precisely specified as to be capable of judicial interpretation, a tendency might arise of subjecting all proceedings of the ministry to the test of the overriding powers of the Governor. Any such tendency would in our view be wholly inconsistent with the spirit of the new constitution, and, if pursued, might well prejudice the entire scheme of the reforms. We are aware that some sections of Indian opinion with which one of us is in agreement would favour restricting the first of the overriding powers mentioned by the Commission to the subject specifically of law and order. But those who hold that view appear to us to overlook the essential point that the purposes of intervention are not necessarily co-terminous with the administration of particular subjects. At the same time we wish to make it clear that we anticipate that the use by the Governor of his overriding powers will be infrequent and reserved for exceptional occasions, when no other course seems appropriate.

There is one new category of overriding powers suggested by the official members of the Government of the Punjab on which some brief comment is needed. The proposal which they make is that the Governor should possess special powers to secure the financial stability of the province, and they explain that they have in view some power to defer too hasty action, in the interest of the broader financial issues. The particular instances which they cite are the relinquishment of substantial revenue, or the acceptance of large schemes involving progressive recurring revenue expenditure, which could clearly only be financed eventually by recourse to extraordinary receipts or loans. It seems clear that, though in such matters the use by the Governor of overriding powers might be due to an anxiety to maintain the financial stability of the province, in effect an exceedingly wide measure of administrative interference would be involved. We are inclined to agree with the Commission that such a power of intervention is undesirable, and should prefer to rely on the Governor's persuasion and guidance to prevent overhasty action.

We agree with the suggestion of the Commission† that the Governor's power of securing the passage of rejected bills by certification and his power of restoring rejected grants

*Volume II, para. 50. †Volume II, paras. 97—98.

should correspond to the range of his special powers to control executive action.

50. **Fundamental rights.**—It has been represented to us that the overriding powers of the Governor for the protection of minorities will be ineffective, and we have been strongly pressed to provide separately for this purpose by a recital in the Act of fundamental rights. In the time at our disposal it has not been possible for us to examine the question fully or in particular to investigate the difficulties, which arise both as regards the definition of such rights, and the selection of means by which they could be made effective. The subjects to be covered by these rights are by no means matter of agreement. Their nature would require careful scrutiny. If they are expressed in the constitution merely as so many general political maxims, they are unlikely to serve the purpose for which they are framed. On the other hand, at first sight there seem to us to be objections to making at least some of such rights justiciable. If administrative decisions of all kinds can be taken to the courts, grave disadvantages and embarrassments may be expected to ensue. There may, however, be some *via media* between these two alternatives. We refrain therefore at this stage from pressing our consideration to a final conclusion, but we remark that, owing to the importance which the minority communities in particular attach to this matter, it is likely to form the subject of keen discussion at the Round Table Conference.

51. **Emergency provision.**—While Parliament remains responsible that there are Governments in the provinces, and that they function, special provision is needed in the constitution for a state of emergency in the event of a breakdown of the constitution. There has been little criticism of the suggestions made by the Commission* to vest the Governors with administrative powers for that purpose and, subject to further examination in detail, we accept their proposals in principle. We remark, however, that under the present constitution Governors do not possess powers corresponding with those of the Governor General to make and promulgate ordinances, and it has been suggested to us that if powers of that description were now to be given to them, it might be proper to make the use of the power, except in sudden emergencies, subject to the consent of the Governor General. We put forward this suggestion for your consideration.

52. **Backward tracts.**—The provision in section 52-A of the Government of India Act empowering the Governor

*Volume II, paras. 65, 98—99.

General in Council to declare any territory in British India to be a backward tract dates from the last reforms. It originates in the recommendation made* in the Joint Report that the typically backward tracts, where the people are primitive and there is no material on which to found political institutions, should be excluded from the jurisdiction of the reformed provincial Governments and administered by the head of the province. Much care and consideration were spent both in the selection of areas declared backward tracts, and in the arrangements made for their administration. Broadly speaking, the result was the creation of two classes of backward tracts, those wholly and those partially excluded from the jurisdiction of the reformed Governments. In the latter there are considerable variations in the degree of their exclusion.

The Commission recognize that there are areas the inhabitants of which are in a lower state of civilization than their neighbours; and agree that for such areas special arrangements are necessary. Their first suggestion is that it may be found that in one or two cases an area now notified as a backward tract is so advanced that its special treatment need not be continued. Action on this suggestion has already been taken. There are no backward tracts in Bombay, the United Provinces or the Central Provinces. The Government of the Punjab state that there is now no need for the special treatment of Spiti and Lahaul. The Government of Bengal are investigating whether the Darjeeling district should continue to be in any degree excluded from the normal constitutional arrangements of the province, and will report the results of their enquiries later. The Government of Bihar and Orissa state that there are parts of Chota Nagpur, of the Santal Parganas and perhaps of the Sambalpur and Angul districts, which need not be retained in a special position. In Assam, as in Bihar and Orissa, the backward tracts are of particular importance. While most of the tracts now notified must continue to receive special treatment, there is some difference of opinion about isolated areas. The opinion in Madras is that the existing backward tracts cannot yet be brought entirely under the normal administration. We welcome the re-examination of the position which provincial Governments have made and are making at the instance of the Commission, and accept the principle of reducing the number and area of the backward tracts wherever possible. There must, however, still remain large territories which all are agreed must for some time to come remain outside the scope of the reforms. For the future administration of these areas the Commission have made important proposals.

*Joint Report, para. 199.

The Commission appear to have been impressed primarily with the need to provide adequate funds for the development of the backward tracts, the most extensive of which fall within the poorest provinces, and reach the conclusion* that " only if responsibility for the backward tracts is entrusted to the centre, does it appear likely that it will be adequately discharged ". They fortify that conclusion by the argument that if unitary ministries replace dyarchical executives, the backward tracts should on constitutional grounds be excluded from the area of responsible government. It is suggested that they should not, like the minor administrations, be placed entirely outside the borders of the Governors' provinces, but the central Government should use the agency of the Governors for their administration, and by resort to its control of the all-India services should enlist from the adjacent provinces the services of officials familiar with local methods. The Commission contemplate that members of the provincial, and possibly of the subordinate, services should also, when expedient, be obtained from the provinces. The arrangements proposed for partially excluded areas contain even greater complications. Partially excluded areas would continue to send representatives to the local legislature, and the Governor, as the agent of the central Government, would decide how far local legislation should apply to them. The extent to which the Governor will act in consultation with ministers is to be regulated by rules made presumably by central authority. These tracts would be under the same system of taxation for provincial purposes as the rest of the province, and the provincial revenues raised within them must be spent upon them. Any additional funds that were needed would come from central revenues.

We see grave difficulties in these proposals, which have been criticized by several local Governments. For the administration of the Chittagong Hill Tracts, the Government of Bengal prefer to retain the present system with such modifications as may be needed. A similar view is held by the Government of Madras for the future administration of the backward tracts situated in that province. It is true that the Government of Assam support centralization, but in their case the prospect of transferring from the province to the centre the cost of administration has probably been a considerable inducement. At the same time the Government of Assam entirely withhold their support from

---

* Volume II, para. 129.

the Commission's scheme of partial exclusion. The arguments against centralization seem to us to have been well set out by the Government of Bihar and Orissa. There is little reason to think that the Federal Assembly will be any more ready to grant funds than the legislature of the province within whose boundaries the particular backward tracts are situated. The comment of the local Government that the Assembly will have little knowledge of and take no interest in these areas is in our belief likely to be justified. We doubt moreover whether the Governor of a province could appropriately be required to act as agent on behalf of the central Government. The financial arguments which were so prominently in the mind of the Commission seem to us less conclusive in view of the proposals which the Commission have themselves made for placing the new provincial Governments in possession of more adequate funds at the expense, it may be, of central revenues. We fully appreciate the various points which the Commission have* taken ; but we think it not unfair to comment that the simple form of administration suitable to the backward tracts *per se* involves a lower scale of expenditure than that of the more developed districts. When their needs rise to the same level, the time for treating them as backward tracts will have passed. Our present disposition, therefore, is to maintain the link between the provinces and the backward tracts without interposing central responsibility for their administration. It may be necessary to retain some areas under the sole administrative control of the Governor. In others where the jurisdiction of ministers and of the provincial legislature has already been admitted, the Governor may need no more than a general power to control the application of central and provincial enactments. The whole subject will, however, require further detailed consideration. In Assam where the area of the backward tracts is so great, special arrangements may be needed and the Commission's scheme of centralization may be found to be the best solution. In Bihar and Orissa the problem is likely to be connected with the question of the formation of a separate province for the Oriyas, and should be considered by the Committee charged with the investigation of that problem.

On a minor point, we have no objection to the Commission's proposal that the somewhat derogatory term " backward tract " should be discarded in the statute, and give place to the more colourless designation " excluded area ",

---

*Volume II, para. 129.

53. **The High Courts.**—Amongst subjects not intimately connected with constitutional issues of fundamental importance are the recommendations made* by the Commission that the charges of all High Courts, including the Chief Court of Oudh and the courts of the Judicial Commissioners of the Central Provinces and Sind, should be put upon central revenues, and that the administrative control of all such courts should be exercised by the Government of India and not by provincial Governments. We have made a summary examination of these proposals and have received in very general terms the views of the courts and the local Governments concerned. The material before us however is not sufficient for the adequate consideration of these recommendations, the financial and administrative aspects of which, intricate in themselves, will require detailed exploration, in consultation with local Governments, in the light of the decisions reached on the larger constitutional issues, and we are of opinion that they could be more conveniently approached when those decisions have been arrived at. As regards the appointment of judges, we agree that while permanent appointments to High Court judgeships should continue to be made by His Majesty the King, all other appointments to High Court judgeships and all appointments to judgeships in courts of lower status exercising similar jurisdiction should be made by the Governor General in Council. We presume that the distinction which appears to be drawn at the end of paragraph 346 of the report between the appointment of additional judges by the central Government and the appointment of temporary judges by the Governor General is not deliberate, and that the proposal is intended to be as expressed above, *i.e.*, only a slight extension of the existing practice in so far as High Courts (other than the High Court of Calcutta to which officiating appointments are already made by the Governor General in Council), and the Chief Court of Oudh, are concerned. From the reference in the first part of this paragraph to the courts of Judicial Commissioners we assume that the recommendation applies to appointments to these courts also, and we agree that no differentiation should be made in the manner of appointing judges to High Courts (except in the case of permanent appointments which have always stood upon a different footing), and to other courts which discharge most of the functions of a High Court. We contemplate that in all cases where appointments are made by the Governor General in Council they will only be made after close consultation with the Governor.

PROVINCIAL FINANCE.

54. **Control of finance in the provinces.**—The proposals of the Indian Statutory Commission contemplate the grant to

*Volume II, para. 345.

the provincial Governments of very full powers in respect of finance. External control by the central Government is confined to the control of borrowing and to such control over provincial taxation as will follow from the powers of superintendence which the Commission contemplate* that the centre should exercise ; and the extraordinary powers of the Governor on the financial side are only designed to enable him to secure supply over the limited field in which he holds in reserve special powers, or to carry out directions which he may receive from the centre. The Commission have deliberately rejected the suggestion that the Governor should be granted special powers to secure the financial stability of the province. For the reasons which we have already explained we concur in that conclusion. In accepting the Commission's proposals generally we desire to add that the maintenance of a strong Finance Department in each province is a matter of great importance, and the special position accorded to the Finance Department in Part III of the Devolution rules should be retained and specifically provided for in the new constitution.

55. **Sir Walter Layton's scheme : its connection with the general constitutional structure.**—It is convenient to deal at this point with the proposals made† by Sir Walter Layton, which have as their main object the provision of adequate financial resources for the provincial Governments.

The working of these proposals might be facilitated by the recommendations which the Commission have made for the reconstitution of the Assembly as a Federal Assembly, indirectly elected through provincial legislatures. We shall consider elsewhere how far these recommendations, which are primarily based on other grounds, are capable of adoption. Here we would only remark that if the Commission's proposals for representation of the provinces in the Assembly were to be altered, it would not be impossible to devise other methods for giving representatives of the provinces a joint opportunity to consider the voting of taxes for the provincial fund. A suggestion which might be considered in that event is that the provincial councils should elect representatives to form a separate inter-provincial council, which should consider proposals for "provincial fund" taxation before their submission to the vote of the central legislature. We recognize that this alternative does not possess the direct advantages of Sir Walter Layton's scheme and we put it forward for consideration only in the event

*Vol. II, para. 182. †Vol. II, Chapter VIII.

of indirect election to the Federal Assembly not being approved.

56. **Preliminary comments on Sir Walter Layton's scheme.** —Turning now to the purely financial aspects of Sir Walter Layton's scheme, we have, speaking generally, approached it with a predisposition in its favour, mainly because it aims at the establishment of a uniform basis for the financial settlements with the provinces. Such an arrangement is in every way preferable, if it can be shown to be workable in practice, to what seems to us the only other alternative, a separate settlement with individual provinces on a basis of needs. It is, however, essential to examine it closely, in order to test its practical working, and we find it necessary to make two preliminary comments. In the first place, the scheme as a whole contemplates within ten years the abandonment by the central Government of about 12 crores of their revenue and the imposition by the provinces of 24 crores of new taxation. It is conceived in a spirit of optimism which we find it difficult to share, having regard to the general economic conditions, with which India and indeed the world in general are likely to be faced in the years immediately before us, to certain omissions in Sir Walter Layton's survey of the central Government's position to which we shall refer again, and to the reluctance which may well be felt by the representatives of the people in the provinces to impose new burdens of this magnitude. Of the new items of taxation suggested, the proposed tax on agricultural incomes involves highly controversial issues, and the terminal tax would, if introduced generally on the scale proposed, be open to serious objection from the economic standpoint. Sir Walter Layton has also, in our opinion, overestimated receipts, especially the revenue likely to be obtained from the taxes on tobacco and matches. For all these reasons we fear that his estimate of the possibilities of fresh taxation may prove to be very wide of the mark. In dealing with agricultural incomes Sir Walter Layton makes the remark* that "increased productivity together with the rise of prices since pre-war days has enormously increased the money value of India's agricultural products". This statement is open to serious challenge, since at the present time the prices of three at least of India's most important crops, cotton, jute and wheat, are actually below pre-war levels, while others, such as oilseeds and groundnuts, are but little above them, and this decline had set in even before the report of the Indian Statutory Commission was published. It is scarcely too much to say that

*Volume II, para. 269

the most serious economic problem, with which India—along with other agricultural countries—is faced, is the decline in value of her main products.

Our second general comment is that the application of the scheme to individual provinces has not been worked out by Sir Walter Layton in detail, and, as will be seen later, it is when we come to the detailed application of the scheme that some of the main difficulties arise.

57. **Sir Walter Layton's assumptions as regards the central Government's surplus.**—We propose to examine the scheme from two points of view, first in its reaction upon the central Government, and second in its application to the provinces. Sir Walter Layton calculates that the central Government should after 10 years, on the present basis of taxation, have a surplus of 14½ crores, arrived at as follows :—

Plus.		*Minus.*	
Customs	7½	Civil Expenditure ..	3
Income-tax ..	5	Opium	2
Army . ..	7		
	+19½		—5

Out of this the central Government should be able to distribute to the provinces :—

(*a*) Half the income-tax on personal incomes ..	6
(*b*) Net proceeds of salt duty (allowing for an increase of ¼ crore after 10 years) ..	6
(*c*) Balance of duty collected on foreign imported liquor over 30 per cent.	1½
Off-set by yield from commercial stamps which will be transferred to the central Government	—1½
	12

Sir Walter Layton's hypothetical table* actually anticipates that, when at the end of ten years this distribution to provinces has been completed, there will still be in the central Government's budget a surplus of 4½ crores ; and his scheme

*Volume II, page 261.

after ten years contemplates that a certain definite and increasing proportion of the customs revenue should be paid into the provincial fund. He does, however, recognize that this prospective surplus may be affected by a number of factors which are uncertain.

58. **Sir Walter Layton's assumptions examined in detail.**—We now proceed to examine in detail the assumptions made in the above calculations.

(1) *Customs.*—In view of the importance of this head of revenue among the few which are left to the central Government under Sir Walter Layton's scheme, we have had a special examination made by the Central Board of Revenue, which is printed as one of the appendices.* It will be seen that the Board do not accept Sir Walter Layton's calculations, but that for an entirely different reason—*viz.*, the great possibilities which lie in the development of motor transport—they have arrived at the conclusion that in 10 years, provided that there are no setbacks due to extraneous influences, there should be an increase under customs of from 7.8 to 10.4 crores. We would add that some allowance might also be made for an increase in the revenue from the duty on silver, Sir Walter Layton having accepted the estimate in the present budget of 1 crore which on the basis of past years' imports is likely to be exceeded. Therefore, so far as customs are concerned, even if the Central Board's estimate is somewhat optimistic, we do not challenge Sir Walter Layton's figure of 7½ crores, which seems sufficiently conservative, provided always that economic conditions in those years are reasonably good, and that there are no substantial changes in the Government's tariff policy. These two qualifying provisos are of great importance. As to the first, a continuance of the present trade depression would reduce both the value of our exports and the consuming power of the people, and these conditions must lead to a diminished volume of imports. As to the second, the present tendency of articulate political opinion in India is strongly in favour of increased protection, and if this opinion obtains an increasing influence on Government's policy as is likely, many of the present revenue duties may acquire a much greater protective significance, with a resulting decrease in Government revenue. Nor can we leave out of account the possibility that there may be a strong demand that an increasing share in motor taxation should be transferred to the provinces, or be earmarked in some way for road development. There are thus grave elements of insecurity in the position, and the fact that the possibility of

*Appendix I.

improvement seems to depend mainly upon one uncertain item is an additional reason for caution.

(2) *Income-tax.*—It is not necessary to discuss at length the suggestions which have been made by Sir Walter Layton for increasing the return from income-tax by lowering the exemption limit and steepening the gradation of the tax. These are suggestions which have been examined more than once before, and there are considerable practical objections to them. We include in the appendices* an extract from a note by the senior Member of the Central Board of Revenue on the subject. Nevertheless, if there were to be a strong demand from the general public or from provincial Governments, the possibility of increasing revenue in these ways might well be again explored. As regards the taxation of agricultural incomes, in view of the difficulties which this subject presents, it would, in our opinion, be unsafe to count on the increase which would be obtained from the higher rate of taxation on composite incomes. The tightening up of the taxation of income from foreign sources is a matter which we have already under consideration, but we have no evidence on which to base estimates of any substantial increase in revenue from this source. It is probable, however, that even without any change in our system of taxation, if we could count on a normal year coinciding both in Bombay and Calcutta, we should be able to obtain not much less than 2 crores over our present figure at once, and in the course of 10 years at least 3 crores above our present figure. Sir Walter Layton's figure of 5 crores is, in our opinion, optimistic. At any rate we do not care to reckon the average expectation of improvement in 10 years time at more than 3 crores, though this is obviously a heading which is capable of great variation according to the development of the country. If political dissensions subsided, and the whole national effort were concentrated on raising the general standard of life, there might be a surprising increase.

(3) *Civil expenditure.*—The estimate of an increase of 3 crores in 10 years does not err on the side of generosity. We allude elsewhere to the probability of many additional burdens being put upon the central Government for contributions to expenditure in the North-West Frontier Province, and also to the possibility of new demands if new provinces are created.

(4) *Opium.*—We shall lose our revenue on exports (2 crores) but shall still retain a small sum (10 to 15 lakhs) from the sale of medicinal opium.

---

* Appendix II.

(5) *Army.*—Sir Walter Layton's estimate assumes a debit of 3 crores to Burma and a further reduction of 7 crores, bringing the military budget for India down to 45 crores. This is a drastic reduction and the possibility of a big saving being realized depends largely on whether His Majesty's Government will make a contribution in respect of the "Imperial defence" element involved in army expenditure. We allude elsewhere to the probability that the Burma estimate will prove unrealizable.

(6) *Railways.*—Sir Walter Layton does not take into account any increase in the contribution from railways in excess of 6 crores, recognizing the importance of keeping railway rates down in the general interests of trade. With this latter comment we definitely agree, though the amount of the railway contribution is a matter which may require further consideration.

(7) *Other items.*—If provinces become responsible for their own accounts, there will be a transfer of expenditure from the central Government to the provinces of over 50 lakhs, though there may be some increase in the central Government's expenditure also on this head, if the scheme for separation of accounts and audit in central areas is extended. On the other hand, the debit to central revenues of High Court expenses less receipts from High Court fees would, we believe, involve an appreciable net charge to central funds. We are not yet in possession of full details on this point, but such preliminary estimates as we have received from provincial representatives confirm this conclusion.

59. **Further considerations affecting Sir Walter Layton's assumptions.**—Apart from the doubts expressed above as to Sir Walter Layton's estimates, there are further considerations to be borne in mind. In the first place, he has assumed that 5 crores of interest on the balances of the paper currency and gold standard reserves will continue to be credited to central revenues. The receipts under this head are, however, at present more than counterbalanced by the losses on sales of silver which are still being debited to a remittance head. In fact the propriety of treating the present receipts as normal revenue may well be regarded as doubtful, and we feel definitely that it would be improper to treat it as a source which could be drawn upon in order to surrender central revenues to the provinces. The difficulty will become more clearly apparent when a reserve bank comes into existence. Under clause 46 of the reserve bank bill of 1927 the central Government was, it is true, to be entitled to a

share in the profits of the bank both during the period when it was building up its reserve and afterwards. These profits, however, would be much less than the interest which we now take to revenue, and in addition the Government of India would, under the reserve bank scheme, be left with the responsibility for the disposal of surplus silver, so that any profits might be far more than swallowed up by losses on these sales.

In the second place, we must take into account the possible financial results of an adjustment of relations with the Indian States. Large claims are being made on their side for a share in our customs revenue and in other directions. It is impossible to make any accurate estimate on this account.

Thirdly, the terms for the separation of Burma, if this is to be effected, are uncertain, and there is a considerable margin of error here especially under the defence and debt heads. Sir Walter Layton, we note, assumes that India will levy customs duty on Burma produce.

Finally the most important consideration of all is that to which we have referred already. The estimated improvement is dependent entirely on the attainment of favourable trade conditions and on the absence of disturbing factors such as war, political unrest, or frontier trouble. We have to remember that these constitutional changes are being introduced at a period of extreme world depression accentuated by the present internal disturbances, and it would be optimistic to assume that trade for a good many years to come will recover sufficiently to give the results anticipated.

60. **Conditions on which the central Government can abandon surplus revenue.**—The conclusion which seems to us irresistible is that all these estimates are so hypothetical that it is impossible to envisage anything like a time-table for giving up to the provinces sources of central revenues. We agree in theory with Sir Walter Layton's statement that it is undesirable that the allocation should be capricious or that policy should be changed from time to time, and we recognize the importance of provincial Governments being able to estimate their financial resources as accurately and as early as possible. But in view of what has been stated above, it seems essential to insist that, if we accept in principle the arrangement that the half share in personal income-tax and the salt tax should be transferred to the provinces, the times and amounts of transfer must depend upon the judgment of the central Government. Sir Walter Layton recognizes that in exceptional circumstances the transfer

according to time-table may be impossible, but he goes on to lay down that in such an event the transfer should be a first charge on the central Government's surplus, and that any delay would be made good in subsequent years. This formula seems to us to require qualification, if only for the reason that a surplus of one year may not be a recurring surplus, and that it must rest with the central Government to decide when any surplus shown in the budget is evidence of a reliable margin of receipts over expenditure, sufficient to justify the permanent sacrifice of prospective revenue. Sir Walter Layton's formula is also too rigid as, if interpreted strictly, it might be held to mean that the central Government was not at liberty to vary its scale of taxation (especially customs) in a downward direction, a discretion which in the interests of the country as a whole ought to remain with the central Government.

In short, we envisage a situation not different in essentials from that under the Meston settlement under which, while the proportions in which the various provinces were to share in the remission of contributions were laid down by rule, the dates and amounts of remission were left to the discretion of the central Government. This conclusion, however, does not mean that the order in which central revenues should be surrendered should not be definitely prescribed. To this point we shall return in dealing with the application of the scheme to the provinces.

61. **Necessity for allowing sufficient elasticity to revenues of central Government.**—There is another question which is equally important. Does Sir Walter Layton's scheme allow sufficient elasticity to the revenues of the central Government to enable it in all circumstances to discharge its responsibilities, remembering that those responsibilities include defence, the debt, the credit and the foreign relations of India ? On this point we confess that we have felt misgivings. Our customs duties are already high, nor is there much margin left for increase in taxation under income-tax or stamps, or in the receipts from the commercial services such as railways. Once salt has been transferred to the list of national excises, the margin of elasticity in case of need may become dangerously restricted. This leads us to consider the desirability for treating the salt tax in a special way ; for it is the best suited of all for an emergency tax, and this has always been an argument for keeping its incidence low in normal times, so as to retain the possibility of its increase as a reinforcement to revenue in an emergency. For these reasons, while we do not oppose the recommendation that the proceeds of the tax at its present rate should be transferred to the provinces when the central Government is

in a position to do this from its assured surplus, we consider that no further increase in the rate should be permissible as a source of provincial revenues. The margin for increase should be regarded as a potential emergency reserve for the central Government. In addition to this, we accept the recommendation* of the Indian Statutory Commission on the subject of surcharges by the central Government on any taxes included in the schedule of the provincial fund. In the absence of these provisions the central Government would be reduced to dependence practically upon customs, and as we have already explained, it would appear as if the prospects of substantial improvement there are reduced to the single chance of an increase in the motor trade. We further consider that the constitution should retain the provision which now exists in Devolution rule 19, under which in cases of emergency the central Government may require contributions to be paid to it by the provinces, with the sanction of and subject to conditions approved by the Secretary of State.

62. **Application of the scheme to the provinces—examination of some of the proposed new sources of provincial revenues.**—We now turn to the application of the scheme to the provinces. There has not been time for a complete examination of all the points which arise in connection with the proposed new sources of provincial revenues, the decision regarding which will in any case mainly rest with the representatives of the provinces. We must, however, call attention to certain important points which have emerged in the course of our examination and our discussions with local Governments. In the first place, Sir Walter Layton proposes that the customs duty on foreign liquor should be reduced to 30 per cent. and that the provinces should be given the right of imposing further duties on foreign liquor in the form of excises. As a counterbalancing adjustment, the central Government should take the revenue from commercial stamps. We have no objection to this proposal in principle, but a careful scrutiny has suggested that the method proposed for dealing with foreign liquor may involve administrative difficulties not fully realized hitherto. This question requires further examination, which we are undertaking in consultation with the provincial Governments, before we should be able to determine the exact form in which this adjustment could be made. Incidentally we would observe that, although the total amount of the present yield from commercial stamps is roughly equal to the total amount which would be surrendered to the provinces under Sir Walter Layton's proposals, the revenues of individual

*Volume II, para. 163.

provinces would be affected in varying degrees, and some provinces have gone so far as to ask for a preliminary adjustment on this account.

As regards the proposed surrender by the central Government of one-half of the income-tax on personal incomes, we have already indicated that we accept this proposal in principle. Sir Walter Layton has stated that the amount involved is in the neighbourhood of 9 crores, half of which would give the provinces 4½ crores. He estimates further that at the end of ten years this allocation would probably grow to 6 crores. Both these estimates seem to us to be optimistic. On the latest figures available, for the year 1928-29, readjusted at the new rates of taxation introduced in the last budget, we calculate that the personal income-tax collected in the provinces was approximately 7 crores, and the allocation to the individual provinces of one-half of the tax would be roughly as follows :—

	Lakhs.
Madras	50.8
Bombay	90.67
Bengal	96.08
United Provinces	32.68
Punjab	30.75
Bihar and Orissa	23.66
Central Provinces	16.71
Assam	8.97
Total ..	350.32

A point, however, which has to be borne in mind is that the figures shown in the above list would not represent a net gain to the provinces, for under Devolution rule 15 a certain share already accrues to them, and we must presume that it was intended that this provision should merge in the new proposals. It will be remembered that under that rule the provinces are entitled to receive a share (at three pies in the rupee) of the tax upon new incomes brought under assessment in any year as compared with the basic year 1920-21. The object of this rule was to give to the provinces some share in what was expected to be a growing head of taxation, and it was anticipated that the industrial provinces in particular would benefit from this provision. In actual practice the rule has operated very differently from the intention and, owing to the full assessments in the main industrial centres in the basic year, the benefit has accrued mainly to the non-industrial provinces. The sums which the provinces have

obtained under Devolution rule 15 since 1921-22 are given in an appendix*. The latest figures available (for 1928-29), which we quote below, are sufficient to illustrate the unexpectedness of the results :—

	Lakhs.
Madras	5.46
Bombay	*Nil.*
Bengal	*Nil.*
United Provinces	0.77
Punjab	4.04
Burma	12.22
Bihar and Orissa	4.74
Central Provinces	2.23
Assam	6.63

It will be seen from the above table that, if the increase already accruing under Devolution rule 15 has to be surrendered by the provinces, as a preliminary to the surrender by the central Government of half the share on personal incomes, the effect of the latter surrender would be considerably modified. The case of Assam is an extreme one, for that province would on balance only gain 2.34 lakhs. We have not finally considered how this situation can best be dealt with, but we would express a provisional view that here, as also in the exchange between liquor and stamp duties referred to above, some sort of preliminary adjustment will be necessary.

We accept the proposal that provinces should be permitted to levy a surcharge amounting to one-quarter of the tax on personal incomes. The proceeds of this tax, should they elect to impose it and should conditions admit of it being imposed at the full rate, may be taken as approximately equivalent to half the amounts mentioned in the table on the preceding page.

The proposal to remove the exemption from income-tax on agricultural incomes raises a most controversial issue, on which opinion in the country will run high. However indisputable may be the logic of Sir Walter Layton's arguments, we must face the reality that this exemption has the sanction of long tradition and that dealings in land have always been conducted on the assumption that it would remain. The opinions of local Governments, with few exceptions, are definitely opposed to it and for practical purposes we regard its imposition as unlikely in the near future. We have some sympathy with the view expressed by more than one province

*Appendix IV.

that it is a form of taxation which should only be imposed by a representative and responsible government, and this in fact means that it should not be imposed upon a province on the vote of the central legislature, but that the representative legislature in each province must be free to decide for itself.

The objections to the widespread introduction of a system of terminal taxes are more fully dealt with in an appendix*. If imposed on the scale suggested by Sir Walter Layton, it would be a serious burden on trade. A terminal tax designed to bring in 8 crores of rupees a year represents a surcharge on railway freights of about 15 per cent., and the suggestion to impose such a tax is hardly consistent with Sir Walter Layton's strongly expressed view as to the urgent need for reducing freight charges. Moreover, apart from this broad consideration, there are certain practical difficulties in the way of the imposition of a general tax of this nature which are not mentioned in Sir Walter Layton's report. Octroi duties and terminal taxes are already used in some provinces as a source of municipal and local taxation. It would hardly be possible to allow this form of taxation to be used by municipal authorities at the same time as it was introduced on a universal provincial basis as proposed by Sir Walter Layton. On the other hand, the right to continue to levy the tax could not be withdrawn from the municipalities where it is now in force, while we foresee difficulties in the way of resisting all further extension of such a method of taxation to other municipalities. In this connection we have to take the actual needs of the various provinces into account. In Assam, for example, a province whose revenue is very restricted and whose opportunities for improving its position from income-tax, etc., are under the present proposals for special reasons much less favourable than those of other provinces, we think that—particularly in connection with the tea garden traffic—there may be a special justification for some sort of terminal tax. Again, in Bihar and Orissa, a province which has hitherto had no municipalities levying this tax, there will probably be a strong demand for its introduction in this form. Without going into further details, we may state our provisional conclusion as follows. While we hold strongly that the economic disadvantages of such a tax are sufficient to condemn its introduction as a general provincial tax, we think that for purposes of local taxation there may be occasions when it will be the best available method, if used for special purposes and to a properly limited extent. If, however, the continued use of such a tax for local purposes is permitted, it will be essential to reserve to the central Government definite powers of control in order to

*Appendix VIII.

safeguard sources of central revenue, and to prevent the imposition of discriminatory taxation which may involve breaches of international treaties or agreements.

We have already taken up the examination of the machinery for dealing with the proposed taxes on tobacco and matches in correspondence with provincial Governments. Both present special difficulties, and the tax on matches in particular can hardly be imposed on a substantial scale without co-operation on the part of the Indian States. Our enquiries on both subjects are still incomplete and any view which we now take is necessarily provisional. We hope that some effective arrangements can be devised, but we believe that it will not be desirable to impose too high a rate at first on matches, and that the full yield from the tax will only be obtained gradually. We regard Sir Walter Layton's estimate of 5 crores from the taxation of tobacco as too high, and on present information we doubt whether even half that amount is likely to be realized.

63. **Increased resources of the provincial Governments on Sir Walter Layton's and our estimates.**—These preliminary remarks have been necessary in order to enable us to approach the matter from a practical point of view. If Sir Walter Layton's assumptions were all accepted, that is, if within ten years the central Government were able to surrender half the tax on personal incomes and the salt tax, and if the provincial Governments were to get the benefit of all the new taxes, tobacco, matches, terminal tax and income-tax on agricultural incomes, and were to impose the surcharge on personal incomes, and if his estimate of the yield of the various taxes were realized, we should get approximately some such result as the following :—

Province.	Actual increase of revenue in lakhs of rupees.	Percentage increase.
Bihar and Orissa ..	4,24	77
Bengal	7,70	69
United Provinces ..	6,09	52
Assam	1,26	49
Central Provinces ..	2,20	46
Madras	6,24	38
Bombay	4,76	34
Punjab	3,51	32

It must be recognized that the picture presented in the above table represents no more than a distant, and perhaps even totally unattainable, ideal. We have indeed already indicated

our view that all that the provinces are likely, in the near future, to be able to count upon from new taxation is the surcharge on personal income-tax, and a very doubtful 3 or 4 crores from the taxes on tobacco and matches, with perhaps a terminal tax in a province specially situated such as Assam. Some other forms of taxation may possibly be added to the provincial fund, though we can think of none of a very productive nature. We should also be glad to see as much latitude as possible allowed in framing the schedule of provincial taxes ; but the provinces will have to rely, in the main, upon the gradual surrender to them of the central revenues from salt and personal income-tax.

However distant any substantial distribution may be, the figures given above illustrate the plan which now holds the field, and it is on that plan that we must consider the views of the various provinces. A glance at the figures shows that several provinces will inevitably regard it as unsatisfactory, and will claim that it does not take sufficient account of their needs. Our task now is to consider both the final objective and the methods of approach to it, and this means that the practical problems really before us are, first, whether a special enquiry into the needs of different provinces should be made before the automatic distribution begins, and second in what order should the surrender of resources take place.

64. **An enquiry on the basis of needs.**—As regards the first of these problems, the Government of Bombay have felt themselves compelled to apply for a preliminary adjustment to meet their outstanding needs before the application of the automatic principle begins. They suggest that needs can only be determined by obligatory expenditure on essential services. Their request would therefore involve the appointment of a special committee to investigate the needs of the different provinces and to form a judgment upon the present rate of expenditure in Bombay upon essential services as compared with that of other provinces. The Government of Bihar and Orissa also consider that a preliminary adjustment should be made with the object of correcting existing maladjustments before the automatic principle is applied. They point out that, unlike other provinces, they obtained no relief by the remission of contributions under the present constitution, since no contribution was imposed upon them, and that, with their existing deficit of 35 lakhs and the heavier expenditure foreshadowed under the new constitution, there will be no margin for the province to develop, having regard to the fact that the estimates of the Layton scheme can hardly be expected to materialize. The considered views of the Bengal Government are not yet before us, but we have understood from their representative (who with the representatives of other provinces met us recently in conference)

that the Bengal Government also would be likely to press strongly for a preliminary adjustment before the introduction of the automatic principle. Other provinces, though they are prepared to accept the Layton scheme, would no doubt advance similar claims if a committee to enquire into needs were appointed. Some of them might argue that in their case expenditure on essential services had been reduced or deferred through enforced economy in the past.

While we have considered it our duty thus to bring prominently to notice the views of those Governments which have asked for a special enquiry, our own view at present is that the appointment of a committee to examine the position of the provinces on the basis of needs would be likely to intensify provincial rivalries and to create general dissatisfaction. For the conclusion is unavoidable that the demands of the various provinces are incompatible, and that no decision could be reached which would be accepted by all provinces as fair. On balance, therefore, our present view is that we must definitely rule out the idea of any general adjustment as between the provinces on the basis of ' needs ' ; for we do not see how any tribunal could pronounce judgment on a matter so controversial and so much a matter of opinion in a form which we could reasonably expect all provinces to accept.

65. **Preliminary adjustments may have to be considered.**—While, however, we feel forced to the conclusion stated in the preceding paragraph, we do not go so far as to say that no sort of preliminary adjustment should be made. We have indeed been impressed in the course of our examination by the serious injustice which may be caused in the initial stage to certain provinces by the re-arrangement of central and provincial sources of revenue involved in the Layton scheme. We have already referred to the operation of Devolution rule 15, the abandonment of which would involve an initial loss in respect of income-tax for several provinces, which could only be recouped later by the transfer of resources from the central Government, the date of which is uncertain. Assam, for instance, stands to lose at once nearly 7 lakhs from a source of revenue which had been steadily growing, whereas their share of personal income-tax, even if the central Government were in a position to surrender at once the full amount under this head, would not be more than 9 lakhs. Similarly the exchange between foreign liquor and commercial stamps, though these heads approximately balance so far as the central Government is concerned, will affect provincial finances unevenly. No figures are at present available and it will take time to collect them, but one province has estimated its loss from the transfer at 13½ lakhs.

The provincialization of accounts will involve a new burden on the provinces which has hitherto been borne by the central Government, while some provinces might benefit from the transfer of High Court expenses less High Court fees. When the exact effect on individual provinces of these various transfers has been examined more thoroughly than has up to this moment been possible, consideration must be given to the question whether these special grounds justify some preliminary adjustments. We reserve our judgment on this point.

66. **The order of surrender of central revenues.**—It is necessary first to explain how the various provinces will be affected by the order of surrender of the two taxes in question, personal income-tax and salt. We have already indicated the proportion in which the provinces would share the proceeds of the personal income-tax when surrendered. The industrial provinces of Bengal and Bombay and in a lesser degree Madras would obtain the principal benefit. The distribution of the salt tax on the basis of population (taking, as seems reasonable, a net figure of 6 crores at the time when the transfer is completed) would give the following results :—

	Lakhs.	Percentage increase in revenue.
Madras	1,10	6.7
Bombay	50	3.5
Bengal	1,24	11.2
United Provinces ..	1,17	9.9
Punjab ..	55	5.1
Bihar and Orissa ..	90	16.3
Central Provinces ..	37	7.7
Assam	17	6.6

It is, however, conceivable that the decision might be to transfer not the whole but a portion of one tax, and then a portion of the other. The result can be judged best by giving the proportions in which each province would share in the first crore of each tax surrendered :—

	Personal income-tax.	Salt.
Madras	14.5	18.5
Bombay	25.9	8.3
Bengal	27.4	20.7
United Provinces ..	9.3	19.5
Punjab	8.8	9.2
Bihar and Orissa ..	6.8	15.0
Central Provinces ..	4.8	6.2
Assam	2.5	2.8

Bengal and Madras come out fairly well in either event, and there is no serious difference in the case of the Punjab, Assam and the Central Provinces, though all would fare slightly better if salt were given the preference. The principal result of preferring income-tax to salt would be a very substantial gain to Bombay and an appreciable gain to Bengal, to the disadvantage mainly of the United Provinces and Bihar.

Sir Walter Layton has definitely recommended that the urgent needs of the industrial provinces should be recognized at least to the extent of arranging that the transfer of income-tax receipts should be begun as early as possible. It is true that the industrial provinces will also gain most from the surcharge on personal income-tax if they decide, and are able, to impose it, but we suggest that as fair a solution as any would be if the surrender of the first 2 crores of revenue were in the form of personal income-tax and that thereafter the surrender of revenue should be from both taxes in equal amounts. We recognize, as pointed out by the Government of Bihar and Orissa, that there would be definite political advantages in making a beginning with the provincialization of the salt tax at an early date. In further support of the form of recommendation that we have thus tentatively made, we would point out that for practical reasons it is likely to be necessary to undertake the transfer of these taxes step by step. The central Government will have to proceed tentatively in the abandonment of its revenues, and it is hardly possible that it will at any moment be in a position to hand over in a single transaction the whole proceeds of either of these taxes.

67. **Procedure applicable to the provincial fund.**—We accept the proposals* of the Indian Statutory Commission regarding the procedure applicable to the provincial fund. Some modification in detail will be required if the Commission's proposals regarding the constitution of the Federal Assembly are revised, but the principles could be applied *mutatis mutandis* to the alternative arrangement which we have suggested for a separate inter-provincial finance council. Several of the provincial Governments have expressed doubts whether it should be open to a minority of the inter-provincial council of finance members to bring proposals for taxation before the Assembly. On the whole however we consider that, if not less than three of the provinces desire that proposals for taxation should be placed before the Assembly, it is fair that they should have an opportunity of presenting their case and of securing, if they can, a majority

* Volume II, para. 163.

in the Assembly. It has also been suggested to us that in view of the many uncertain factors and hypothetical assumptions involved in the suggested financial arrangements, which may result in the settlement working out very differently from what is now anticipated, provision should be made for a review of the settlement after 5 or 10 years. We have considered this suggestion, but we are of opinion that such an arrangement would be disturbing, and might even lead provinces into a policy of extravagance with the object of establishing claims for special treatment in the light of their actual commitments at the time of revision.

We recommend that the settlement should be embodied in statutory rules so that alteration of it would be possible without an amendment of the constitution.

We call attention to the recommendation of the Bombay Government, with which we agree, that legislation imposing provincial fund taxation should not be voted every year, but only when the inter-provincial council of finance members makes proposals for a change.

68. **Borrowing powers.**—In an earlier paragraph we stated that we accepted the position that the control by the Government of India over the provinces in the sphere of finance should be confined to the control of borrowing. It is desirable to consider more fully the details of the Indian Statutory Commission's proposals on this subject.

As regards the powers of provincial Governments to raise loans, the proposals in their report make little change in the existing position which is governed by rule 3 (1) of the Local Government (Borrowing) rules (regulating borrowing in the open market) and by Devolution rule 25 (regulating advances by the Government of India to local Governments). In actual practice the terms on which advances can ordinarily be given have been codified in the rules governing the provincial loans fund, which have received the approval of the Secretary of State in Council, and have therefore to some extent limited the fuller powers which the Government of India enjoyed under Devolution rule 25.

The proposals of Sir Walter Layton may be summarized as follows :—

(*a*) The loans raised by provincial Governments should be subject to standard regulations and their raising should be co-ordinated.

(*b*) To this end a council of provincial finance ministers should be instituted, over which the

Finance Member of the Government of India should preside. Its tasks* should be "to establish a borrowing programme, to lay down the standard regulations, and to arrange terms with the Government of India". It should, however, be advisory only for the present, and the real power should vest in the central Government. On the other hand, it is contemplated that the latter should not act without consulting the council, since it is specifically stated that consultation should invariably be made before special sanction is refused to a loan, even where such sanction is definitely required by the regulations.

(c) As responsible government in India develops, the council may cease to be a mere advisory body and may acquire real power.

The Commission† apparently accept these proposals generally. They suggest further that the powers statutorily retained by the central Government should take the shape of a perfectly general control, but that this control should not be used to dictate the purposes for which loans should be raised. If a declared purpose is within the scope of the regulations, the grant or refusal of sanction should be dependent primarily on considerations of the monetary and credit situation. Approval should, however, not ordinarily be given to a loan intended to meet a deficit ; and if it is to be given, the loan should pay a discriminatory rate of interest.

Subject to a qualification and a reservation explained at the end of this paragraph, we are prepared to accept these proposals as a provisional arrangement, though we must emphasize that the words 'credit situation' used above require further definition. The considerations which are to govern any decision should include, not only the general credit situation of the Government of India, having regard to its own position and the rates for money prevailing in the world at the time, but also the particular credit situation of the province which is seeking a loan. For this purpose account would have to be taken of the general financial policy and position of the province concerned. While accepting the proposals as a provisional arrangement, we feel bound to express doubts as to its advisability as a permament plan, if it is to develop to a point where the inter-provincial council ceases to be merely advisory and acquires

* Volume II, para. 311.
† Volume II, para. 189.

actual powers of decision. Several of the provincial Governments have expressed opposition to the idea that their borrowing programme should be controlled by a council consisting of representatives of other provinces who are their potential competitors for a share in the limited amount of loan money available. They do not rule out the possibility that it may be to their advantage to abandon permanently their individual liberty of borrowing on their own credit, for the sake of arriving at a co-ordinated plan of borrowing for the whole of India, and in order to obtain the advantage of borrowing with the credit of the Government of India. But they do not consider that in that case a body composed of political representatives of all the provinces would provide a suitable arbitral tribunal. They contemplate rather something in the nature of an all-India board of loan commissioners, on which the expert element would be strongly represented. It has indeed always been our view that the administration of the provincial loans fund should eventually be entrusted to such a board. On the other hand, we feel that it is premature at this stage to settle any arrangements which should govern the position for all time. While recognizing the advantage of a co-ordinated plan of borrowing, we see serious disadvantages in creating conditions, in which the individual provinces need not consider their own credit with the world but can always rely on the support and protection of the central Government. The surest way to bring home to any Government the necessity for following canons of sound financial administration is that they should be faced, when they disregard those canons, with the absolute impossibility of raising funds, even on loan. This necessity will be borne in upon them if they have themselves to deal with the outside money market, whereas if it is merely a matter between the provincial Government and the central Government, the realities may be obscured and political influences will play a part. Speaking generally, we think that the future course must be decided in the light of actual experience. For the present the provincial Governments are all prepared to continue what is in substance the existing arrangement, and to place themselves in the hands of the central Government. It is our view also that this arrangement should be retained for the present. We have to make one further observation in conclusion. The objections expressed by the provincial Governments to having their individual loan operations controlled by a council of provincial representatives have led them in certain cases to ask that the functions even of an advisory council should be strictly limited. They fear that even if such a council is merely advisory, if it is formally constituted, it

will be difficult for the central Government to reject its advice. They would prefer it to be definitely understood that the power of decision remains with the central Government and that the central Government will do no more than summon a meeting of provincial representatives so that the general programme may be jointly discussed ; such discussion being of an informal nature and not intended to lead up to anything in the nature of definite resolutions by the council. On the whole, we may express agreement with this view.

We must also make one further reservation. It would seem essential to give the Government of India power to act without consulting provincial representatives if an application for a loan is made in an unexpected emergency. It is consistent with our preceding observations that we do not consider it to be necessary or desirable to provide by statutory rules for the establishment of a council. The necessary provisions could be inserted in the standard regulations themselves, which would take the place of the rules now sanctioned by the Secretary of State. Minor points of detail could be thrashed out when the provincial representatives met to frame regulations.

69. **Provincial balances.**—The Indian Statutory Commission have concurred in Sir Walter Layton's recommendation that provincial balances should not for the present be separated, and that any change in the present arrangements might be postponed until a central bank is created, which would presumably take over the banking business of the provincial and central Governments. We have ascertained that there is no desire on the part of provincial Governments for any immediate change in the present arrangements, and we support the Commission's recommendation. We have, however, to contemplate the possibility that an autonomous provincial Government may desire at some time in the future to maintain its own balances, and following the general principle adopted by the Commission a development in this direction should be allowed for. We therefore recommend that if, after the new regime has been started, any provincial Government desires to maintain separate balances, the Government of India should be prepared to agree, subject to suitable arrangements as to details. A scheme for the separation of balances was drawn up in 1924, and it may be said that the separation could be effected without any serious administrative difficulty.

In this connection the Commission have made a further recommendation that the Government of India should perform the service of banker for the provincial Governments

on a commercial basis, and should not attempt to make undue profits out of the business. We accept this in principle without committing ourselves at present to the amount of profit which would be reasonable or the form in which this profit would accrue, *e.g.*, services rendered at treasuries or interest on minimum balances to be kept by the provincial Governments.

70. **Accounts and audit.**—Sir Walter Layton's recommendation in regard to provincial accounts and to the status and functions of the Auditor General are endorsed* by the Indian Statutory Commission. We accept the Commission's recommendations. It is not unlikely that some of the provincial Governments will at first desire to employ the central Government as their agent to keep their accounts and supervise their accounting staff, but we agree with Sir Walter Layton that whatever arrangement is adopted, the accounting staff should be entirely separate, so that the accounts may be audited by an officer holding an independent position. The various technical problems arising in this connection have been examined, and, although complicated, do not give rise to any insuperable difficulty. The question of the future of the Indian Audit and Accounts Service is among the most important. The danger to avoid is that of having a number of small distinct cadres, none of which would be sufficiently large to offer a career to attract and keep good men. At first at any rate the provinces will probably find it necessary to employ men seconded from the central service for the higher posts, and the full organization will be for administrative experience to decide.

71. **Grants-in-aid.**—We agree with the view expressed† by the Indian Statutory Commission that the rigid system now in force, under which it has been held that it is not permissible to incur expenditure from central revenues on provincial subjects, should be relaxed, and that it should be rendered constitutionally possible under suitable restrictions to assist provincial objects from central funds and *vice versa*. Any such grants-in-aid should be for some specific purpose, and the system should not be used for general relief of provincial revenues.

72. **Local cesses on land.**—We have no comment to make on Sir Walter Layton's recommendation‡ regarding the desirability of removing the limit upon surcharges or cesses on land revenue or rent. This is a matter which is within the competence of provincial legislatures.

---

* Volume II, para. 189. † Volume II, para. 187. ‡ Volume II, para. 275.

THE CHIEF COMMISSIONERS' PROVINCES.

The North-West Frontier Province.

73. **The proposals of the Commission.**—The Commission devote particular attention to the peculiarly difficult problem of the North-West Frontier Province. Their first volume contains an illuminating chapter on its main features. The contrast between the government exercised in the five administered districts and in the tribal tracts beyond is authoritatively described, and the chapter ends with a general discussion of the nature of the constitutional problem. The main points which the Commission take are, first, that the tribal area must remain under the direct charge of the Government of India ; second, that the administration of justice and the task of promoting and preserving order in the five districts is intimately connected with the control of the tribal tracts ; third, that if law and order in the five districts were to be dealt with in a provincial legislature, and entrusted to a minister responsible to such legislature, the necessary co-operation would be more difficult to secure ; and, fourth, that the question of law and order, which in other parts of India is a domestic and internal matter, in the North-West Frontier Province is closely related to the subjects of foreign policy, and of Imperial defence. On the other hand, while they comment sympathetically on the fears of the small Hindu community, the Commission hold that the denial of reforms to the five districts has given these an undoubted grievance. They comment, however, on the absence of local experience of the elective principle and draw adverse conclusions from the results of the recent experiment in elections to the Peshawar municipality.

The recommendations made by the Commission in their second volume reflect the tenour of the views they express in the first. They repeat their previous emphasis on the essential need for unified control over the settled districts and over the tribal tracts, as the only means by which the security of the frontier can be effectively maintained. They accordingly suggest that there should be no change in the present arrangement, by which the Chief Commissioner combines in his person the dual responsibility of administering the five districts and acting as Agent for the Governor General in dealing with the tribal area. They propose to meet the political aspirations of the province by creating a local legislature containing indirectly elected representatives, with powers of taxation and of voting expenditure ; but *"executive responsibility should, as at present, rest with the Chief Commissioner".

*Volume II, para. 121.

74. **The proposals of the Indian Central Committee.**—The recommendation made in the majority report of the Indian Central Committee was that reforms should be introduced into the North-West Frontier Province on the lines of the Morley-Minto reforms ; and that after a constitution of that type had been in operation for ten years, the question should be further examined with a view to seeing what advance could then be made.

75. **The need for constitutional advance.**—As we shall presently indicate, we see strong reasons for giving the North-West Frontier Province a form of government somewhat more liberal than proposed either by the Commission or by the Indian Central Committee. But the first point which we desire to emphasize is that the Commission themselves appreciate the now urgent need for constitutional advance in that province. The need is also recognized by the Indian Central Committee. This is an important variation from the position which obtained in 1919 when the authors of the Joint Report recommended* that, for reasons of strategy, the province must remain entirely in the hands of the Government of India, a recommendation which has since continued to govern its constitutional status. And, though the problem of introducing reforms has been much agitated for some years past, and was examined by the Committee over which Sir Denys Bray presided in 1922, no change in the administration has yet been made. The province was separated from the Punjab in 1901, and still retains the form of government which it was then given. The last thirty years have seen great changes in the province, and this is a position which we think can no longer be maintained. The need for some advance is admitted ; the questions now at issue are its degree, and the form which the new constitution should take.

The Commission seem to have been greatly influenced by their belief that local conditions prevent any resort to methods of direct election. For our part we are inclined to the view that the conclusions which the Commission drew from the first results of a single experiment in municipal elections may have been unduly pessimistic, and, if direct elections to the legislature be found practicable, we would consider it difficult, on general grounds, to refuse to the frontier province somewhat more generous treatment than the Commission recommend. The five districts of the North-West Frontier Province are not behind the adjoining districts of the Rawalpindi and Multan divisions of the Punjab in point of intelligence and capacity. In these Punjab districts

*Joint Report, para. 198.

the method of direct election to district boards and municipal committees was still unknown when the reforms of 1919 were introduced. Nevertheless, they have participated with success in the dyarchical constitution of the province. The people of the North-West Frontier Province may well claim that the absence of direct representation for local purposes should no more obstruct the introduction of representative government in their province now than it did in the Punjab in 1919. In fact the Chief Commissioner has now decided to introduce direct representation for the constitution of local bodies.

There are, however, other reasons of great practical moment for carrying reform beyond the point reached by the Commission. Their proposals concede a legislative council, but deny any popular share in the executive. In effect the Commission, equally with the Indian Central Committee, would leave the North-West Frontier Province, with some variation, very much at the stage which other provinces reached with the introduction of the Morley-Minto reforms in 1909. There would be in the executive no element of responsibility to the legislature. The undertaking of His Majesty's Government set out in the announcement of the 20th August 1917 would still remain unexpressed in the constitution of the North-West Frontier Province at a time when the other provinces are rapidly moving forward to responsible government. We fully recognize the particular conditions of the North-West Frontier Province so well described in the report, and do not overlook the weighty considerations which influenced the Commission in favour of a strictly cautious advance. At the same time the realities of the situation, and we here have in mind the events of the past few months, make it a matter of the first importance that the scheme adopted should attract a reasonable measure of public support ; and, subject to the necessary safeguard, that it should not leave the way open for invidious comparisons between the form of government in the North-West Frontier Province and that introduced elsewhere.

76. **The choice between three courses.**—These are the broader considerations which we have before us. The choice of a constitution for the North-West Frontier Province seems to lie between three systems : either a Morley-Minto constitution, or dyarchy, or a unitary scheme on lines approximate to the form of government in other provinces, but with provisions appropriate to the particular circumstances of the province. The first represents roughly the choice made by the Commission and by the majority of the Indian

Central Committee. For the reasons which we have just given, we consider that it would not satisfy the political aspirations of the province, and would thus suffer from the fatal impediment that it would enlist no popular co-operation. Arguments based on the Commission's contention that the province* " forms the inevitable terrain for military operations " seem to us to be susceptible of implications other than those which the Commission draw. A discontented frontier province would be a serious threat in the rear of any army operating in the defence of India. We would be reluctant therefore to adopt a form of constitution for the North-West Frontier Province which would fall so far short of provincial expectations. Incidentally the suggestion of the Indian Central Committee to fix a ten years' limit to the constitution which they propose seems to us more likely to aggravate than to assuage the objections to their scheme. From the first years of the new constitution agitation would be set on foot to replace an admittedly transitional system by something more acceptable.

The second expedient of a dyarchic constitution on the lines of the existing constitution in the Governors' provinces was suggested by two Muslim members of the Indian Central Committee, namely Sir Zulfiqar Ali Khan and Dr. A. Suhrawardy. So far as we are aware their suggestion has received no support in the province ; and, in the absence of such support, we agree with the Chief Commissioner that there would be very grave disadvantages in now giving the North-West Frontier Province a form of government which is being discarded elsewhere. The general arguments used by the Commission in criticism of dyarchy in the Governors' provinces would apply with special force in the North-West Frontier Province, where irresponsible opposition to the reserved administration would be particularly dangerous.

There remains the third possibility, namely, a unitary scheme approximating to the form of government in other provinces, but with adequate power secured to the head of the province suitable to the particular local circumstances. This is the form of constitution recommended by the Chief Commissioner and represents the choice between the three courses which we would ourselves make. The scheme which the Chief Commissioner proposes is set out in an annexure to his letter ; but the matter is of such great importance to the peace and contentment of the North-West Frontier Province that we make no apology for ourselves recapitulating the features of the Chief Commissioner's scheme and reviewing the lines on which it might be expected to function.

*Volume II, para. 120.

77. **The Chief Commissioner's scheme.**—The scheme prepared by the Chief Commissioner contemplates a legislature to consist, as recommended by the Commission, of an elected and nominated element in about equal proportions. The precise suggestion is that the elective element should be given a majority of one. So far there is agreement with the Commission, but in place of the Commission's scheme of indirect election, the intention is to substitute direct election " if there is found to be any strong local feeling in favour of a body of elected members wholly chosen by direct election ". The Chief Commissioner does not exclude the possibility of combining direct with indirect methods of election, but, as he states, the problem would require to be worked out by a special franchise committee possibly local in its composition. The size of the council would be determined by the consideration of what would form convenient constituencies, but it is anticipated that it would comprise a total membership elected and nominated of some 30 or 40 members. The Hindu and Sikh minorities would be given weightage which might be double that to which they would be entitled on a population basis, and would be given a choice between various methods of representation including separate electorates, reservation of seats, or even nomination. The official element would be limited to six or eight nominated seats.

The Commission rightly emphasize the need for vesting responsibility both for the five districts and for the tribal tracts in the same executive authority. The Chief Commissioner's scheme recognizes this essential requirement. The head of the administration of the North-West Frontier Province, to be known under these proposals as the Lieutenant-Governor, would remain the Agent to the Governor General in Council for the tribal area. But for the administration of the five districts it is suggested that he should be assisted by two ministers, of whom one would be an official.

This departure from the recommendations of the Commission involves other important consequences. Instead of remaining a centrally administered area under the direct control of the Governor General in Council, it is proposed to devolve authority on the provincial administration with a classification of subjects into central and provincial, following broadly the lines of the classification in other provinces. But there would be exceptions in the case of certain subjects peculiar to the North-West Frontier administration, which would be classified as central subjects and dealt with on the existing basis. The Chief Commissioner has enumerated some of these, for instance, the frontier constabulary and scouts,

frontier remissions and allowances, and strategic roads as illustrations of matters chiefly relating to the tribal areas and to the defence of India, and properly classed as central subjects for that reason. He also mentions the extra police and other forces necessitated by the geographical position of the province. We think it probable that on further examination these should be classed as provincial. These, however, are matters of detail which need not here detain us. The broad point is that in making the dividing line between central and provincial subjects, regard would be had to the need for classifying as central certain subjects of all-India importance peculiar to the present administration of the North-West Frontier Province, which could not properly be entrusted to the provincial legislature.

Simultaneously with the devolution of authority to the local administration, it would be necessary to give the province a financial settlement. The Chief Commissioner has explained that it will be necessary first to reach a figure of what may be called its normal domestic expenditure. Steps have already been taken to enquire further into the classification which he has suggested of various classes of provincial expenditure, but these again are matters of detail with which we need not encumber this despatch. The outstanding result is that even after heads of expenditure which should be classified as central have been separated, the revenues locally raised are expected to fall far short of the expenditure needed for the administration of the subjects, which will be classified as provincial. To meet this deficit a subvention from central revenues would be required which, in agreement with the Commission, we consider would be justified. The Chief Commissioner suggests, and we are disposed to accept his suggestion, that the subvention fixed on this basis should not be variable from year to year, but should be subject to quinquennial review by the Assembly.

These are the broad outlines of the alternative scheme, which with due regard to local conditions the Chief Commissioner has put forward. In concluding his description of his proposals, which he describes as tentative only, he summarizes the main respects in which they depart from the recommendations of the Commission, namely, in the devolution of authority to the local Government; the provision for a financial settlement; the introduction of direct election to the legislature; and the presence in the executive of two ministers, one official and one non-official. The scheme is put forward in the belief that while securing to the Lieutenant-Governor adequate controlling authority, it will give the province a flexible constitution capable, with the growth of political experience, of development and expansion without

the necessity of subsequent violent changes or radical statutory amendment.

78. **Consideration by the Round Table Conference.**—We have no doubt that full opportunity will be taken at the Round Table Conference, in consultation with the British India delegates, to weigh and to assess the rival merits of the three schemes which we have set out, or of any others which may be put forward for consideration. Much weight will attach to the proposal to which the Commission have lent their authority. We recognize the care and the ability with which they have considered this most difficult problem. We do not differ from them in their assessment of the factors which must be borne in mind, and of which we appreciate the bearing. But recent events have thrown fresh light on what has become a pressing political problem. We do not disguise the risks involved. They are set out frankly by the Chief Commissioner. But the risk of continued political dissatisfaction in the North-West Frontier Province is to our minds the greater menace. We look for a constitution which shall be so framed as, on the one hand, to safeguard the peace and security of the frontier, and, on the other hand, to recognize the local aspirations with which we fully sympathize for a form of government, containing a popular element, for the administration of purely provincial subjects. With this objective before us, while we appreciate the arguments on which the Commission base their proposals, we favour the more liberal scheme which the Chief Commissioner has prepared, and which he recommends.

Baluchistan.

79. The Chief Commissioner in Baluchistan accepts the view expressed by the Commission that no present change is required in the administration of Baluchistan, where no desire for western institutions has yet expressed itself. We also are of the same opinion. We agree with the Chief Commissioner in the importance which he attaches to the Commission's proposal for the representation of the province in the central legislature. We have borne this in mind in the suggestions which we have made below for the future composition of the Indian legislature.

Other Areas.

80. **The Delhi Province.**—In our memorandum to the Commission on the subject of the Delhi province, we observed that it comprises the seat of the Imperial Government and those areas alone which could not conveniently be severed from it. Though the memorandum was descriptive only, we drew

upon the precedents of other countries to emphasize our direct interest in the general and political condition of our own enclave. The Commission's view that the form of government in Delhi cannot be usefully altered is entirely in accord with our own opinion. In our own suggestions for the constitution of the Assembly we meet the point taken by the Chief Commissioner that there should be two seats, one for a Hindu and one for a Muslim representative of the Delhi province.

81. **Ajmer-Merwara.**—Similarly, in agreement with the Commission and with the Chief Commissioner, we consider that at present no constitutional reform can suitably be introduced in Ajmer-Merwara. We agree with the Chief Commissioner that the representative of the province in the Assembly should as now be elected, and should not, as suggested by the Commission, be nominated. It may not, however, be possible to meet the view of the Chief Commissioner that Ajmer-Merwara be given a separate seat not shared with any other province in the Council of State. But, as in the case of Coorg, we agree that the views expressed by the Chief Commissioner in this matter should not be overlooked when the precise composition of the Council of State is being considered.

82. **Coorg.**—The Commission have expressed the opinion that there is no ground for changing existing constitutional arrangements in Coorg. The Coorgs themselves appear from the Chief Commissioner's letter to be divided in their views on the future status of the province. Some sections are reported to favour amalgamation with a larger unit; others desire to retain the separate existence of the Coorg province. We agree with the Chief Commissioner that, until local opinion has crystallized, it would be premature and unwise to take final decisions. We accordingly accept the recommendation of the Commission against any present change.

We accept the Commission's proposal to give Coorg one elected seat in the Federal Assembly. We fully appreciate the distinctive historical traditions of Coorg as recalled by the Chief Commissioner, but we see some difficulty in accepting his suggestion that this small province should also have one seat of its own in the Council of State instead of sharing a seat with Baluchistan and Ajmer-Merwara, as recommended by the Commission. The views expressed by the Chief Commissioner on this point may however be further considered when the arrangements for the composition of the future Council of State are being made.

83. **Machinery for constitutional changes.**—Though we accept the Commission's view that the time has not come for constitutional change in any of these four central areas, we recognize that their existing systems of administration may in course of time come to require modification. We should hope therefore that there would be machinery in the constitution to enable administrative and constitutional changes to be made at any time in the form of their government.

BURMA.

84. **Separation recommended by the Commission.**—In their report the Commission discuss* at some length the future of Burma. They describe the nature of its present association with India, and express two main grounds for their belief that the two countries should now be separated. These two grounds, which they state as cardinal considerations, are, first, the strength of Burman sentiment in favour of separation ; and, second, the constitutional difficulty of giving to Burma a satisfactory place in any centralized system designed to advance the realization of responsible government in British India. Their examination of these two matters leads the Commission† " to the definite conclusion that nothing but the most overwhelming considerations could justify the continued retention of Burma within the Government of India ". Having reached this view, they next proceed to consider the main objections which have been raised, military, financial and economic.

The Commission do not contest the argument in the Montagu-Chelmsford report that Burma must remain‡ " part of the Indian polity " for military reasons. They do not enter into questions of high strategy; but, after emphasizing the limit of Burma's interest in the defence of the North-East Frontier of India, they take their main point that§ " they see no reason why it should not be possible to combine political separation with satisfactory arrangements in the military sphere ". Though they contemplate that the troops in a separated Burma would be under the control of the Governor in all ordinary internal matters, they seem to have had in view close military co-ordination under some kind of unified control between India and Burma for the general purposes of defence.

The Commission accept Sir Walter Layton's general conclusion‖ that " separation could fairly be effected in such a way as to do no financial injury to either country, and to leave Burma with adequate resources ".

---

*Vol. II, Part VI.

†Vol. II, para. 219.

‡Joint Report, Para. 198.

§Vol. II, para. 221.

‖Vol. II, para. 222.

They restrict their consideration of the economic consequences to the effect of separation on Burma's economic position and its economic relations with India, and suggest that mutual adjustments should be made by way of a trade convention between the two countries to the advantage of both.

The general view which the Commission reach from these conclusions is that there are no military, financial or economic objections of such weight as to amount* to " overwhelming considerations " sufficient to justify the retention of Burma under the Government of India. They accordingly make a definite recommendation that Burma should be at once separated from India, and they suggest that a declaration to that effect should be made as early as possible.

85. **The military problem.**—In the short time at our disposal we have endeavoured to supplement the Commission's investigations into the probable military, financial and economic consequences of separation by further departmental enquiries on our own part. We take first the military problem.

We do not here concern ourselves with questions of the garrison required in a separated Burma; nor with the sources from which it should be obtained ; nor again with such matters as the nature and extent of such financial contribution, if any, as Burma might for one reason or another be required to make towards the defence of India. The broad issue which we place before ourselves is whether or not strategical considerations make it essential to maintain a single military organization under unified control for the defence both of India and of Burma. On this broad issue the technical advice which has been tendered to us by our colleague His Excellency the Commander-in-Chief is that unified control is not essential. We are informed that there is no military reason why each country should not possess its own separate defence organization. This advice immensely simplifies the problem with which the Commission were faced. It does not mean that difficult and complicated issues may not arise in determining the appropriate arrangements for the defence of Burma. Nor does it exclude the possibility of some measure of mutual co-ordination in the arrangements made for the defence of the two countries. But the advice which we are given, and which we are disposed to accept, goes far to remove the military problem as in itself an obstacle to the separation of Burma. Moreover, it is wholly in accord with the representation made by the Government of Burma themselves that† " separation should be complete, and

*Volume II, para. 219. †Burma letter, para. 14.

should extend to the military as well as to the political sphere ".

86. **Financial considerations.**—Our examination of the financial consequences likely to arise from separation is necessarily incomplete, but we enclose in the form of an appendix* a memorandum prepared in our Finance Department discussing various aspects of this matter. The calculations made by Sir Walter Layton in his note on the financial aspect of separation are examined and discussed, and the conclusion reached by the Department is that it would not be safe to accept at present the Commission's finding that separation could fairly be effected in such a way as to do no financial injury to India. At the same time, according to the departmental view, separation could be brought about in such a way that the revenue loss to India would not be of sufficient magnitude to make it a factor of overriding importance in considering the *pros* and *cons* of separation. The reactions of separation in the financial sphere will not be confined to its direct effects on revenue and expenditure. In considering these reactions we wish to emphasize the great desirability, if separation is to be carried out, of adjusting the relations between the two countries in a spirit of reason and mutual accommodation, so as to avoid as far as possible the ill-effects which might arise from so great a change in long-established practice. This remark applies equally to the economic consequences referred to in the next paragraph.

87. **Economic consequences.**—We turn now to the possible economic consequences of separation. Here we pass into a region where precise statements of the probable future position in the event of separation cannot be made. At present the two countries come under a single economic system. The Commission have examined the question primarily from the aspect of the reactions of separation on the economics of Burma. They comment on the divergence of interests between India and Burma and mention† that " Burma increasingly feels that its own practical interests sometimes conflict with the policy which commends itself to the majority in the central legislature ". We are aware that some sections of influential opinion in Burma take the view that economically their country suffers by its union with India, and that this constitutes a factor in the local demand for separation. But even if it were to be established that under existing arrangements Burma suffers some economic disadvantages not directly offset by compensatory economic benefits, this would not necessarily lead to a decision in favour of immediate separation. It would still be necessary to assess the

*Appendix IX. †Volume II, para. 218.

economic effect on India of a separated Burma. The most that we are able at present to say on this subject is that the economic effects may be considerable, but that, as suggested by the Commission, it should be possible to secure the legitimate interests of India by some such means as a trade convention on terms mutually advantageous to both countries.

88. **Administrative aspects.**—Into the more general aspects of separation we have made similar departmental investigation. No administrative objections have been brought to our notice of such moment as to affect a decision on the broad question of policy whether Burma should remain a part of British India, or whether it should be separated. If the political association of the two countries were to be terminated, it might still be found desirable by mutual agreement to retain common services for certain purposes. For instance, local difficulties in organizing scientific departments corresponding to the Geological Survey of India, the Survey of India or the Meteorological Department could be met by agreed arrangements on a basis of payments made for services rendered. Any necessary co-operation, for instance, in agricultural, medical or forest research, could no doubt be settled by negotiation.

89. **Separation accepted in principle.**—The brief review which we have made of the military, financial, economic and administrative factors leads us generally to the same conclusion as that reached by the Commission, namely that, however important may be the practical considerations which are raised by the proposal for separation, and we do not disguise from ourselves the fact that the consequences may be far-reaching, they do not in themselves constitute any insurmountable barrier. The separation of Burma can therefore be examined in the light of the broader considerations of policy adduced by the Commission. In their first volume the Commission* set themselves " to bring home to the British Parliament and the British people in what the difference between Burma and the rest of India essentially consists". The people of Burma are entirely different from the people of India. They come from a different stock and have a different history. The former rulers of India never ruled over Burma. The country in which the Burmese live is geographically distinct from India and is cut off from it by sea, mountain and jungle. These statements by the Commission of the differences between the two countries supply the fundamental argument in favour of separation, an argument which develops greater strength with each step forward that India takes on the road to self-

* Volume I, para. 95.

government. The Commission describe the difficulties of Burmese representation in the central legislature, and the disabilities from which the few Burman representatives must necessarily suffer in a body preponderatingly Indian in its composition and its outlook. We accept their description and we recognize the difficulties. But the real argument for separation is that in the words of the Joint Report* " Burma is not India ". For that reason the growing volume of Burmese sentiment in favour of separation is now difficult to resist. Since the publication of the Commission's report the Burma legislative council has again expressed itself unequivocally in favour of separation, and in their letter the Government of Burma accept† as " unquestionably correct " the estimate of Burmese opinion made by the Commission.‡ We accordingly endorse the view expressed by the Commission that, so far as there is public opinion in Burma, it is strongly in favour of separation. Assuming, therefore, that an equitable financial settlement will be made between the two countries, and that their respective economic interests will be safeguarded by arrangements which we hope may be mutually advantageous, we support in principle the proposal that Burma should now be separated. At the same time we feel strongly that it is a matter regarding which Indian opinion should have ample opportunity to declare itself, and we would not ask His Majesty's Government to come to any definite decision until there has first been full discussion of the whole question at the Round Table Conference. We accept the view of the Commission that there is nothing to be gained by postponing separation to any later stage in the constitutional growth of British India. If separation be accepted in principle, the present revision of the whole constitution of government in British India supplies the appropriate occasion for making the change.

90. **An early declaration of policy.**—The Commission suggest that an announcement should be promptly and publicly made that the policy of separation of Burma from British India has been approved, and that consideration will at once be given to the question of the new constitution of Burma, and to the adjustment of the many complicated and important matters which must arise during the period of transition.

As we have just indicated, we do not contemplate that any public declaration should be made before the question of the

---

*Joint Report, para. 198. †Burma letter, para. 2.

‡ Volume II, para. 219.

separation of Burma has been considered by the Round Table Conference. There may even be difficulties in making an announcement before Parliamentary approval has been obtained. This, however, would be a matter between His Majesty's Government and Parliament. The point with which we are concerned is to invite attention to the emphasis which the Government of Burma lay upon the need for expedition, in order that a new constitution for Burma may come into being at the same time as the new constitution for British India. In view of the large issues involved, we have some doubt whether this will in fact be possible ; but, assuming that the general case for separation is established, we agree both with the Commission and with the local Government that an early declaration of policy is desirable to enable enquiries to be set on foot without avoidable delay, in order to effect the separation as nearly as may be simultaneously with the introduction of the new constitution in India.

91. **The machinery for enquiry.**—We have mentioned that large issues are involved, and we shall endeavour to give a connected view of the general nature of the enquiries which seem to us likely to be necessary before separation can be carried into effect. In such an event, there would be three classes of matters to be considered. In the first place a new constitution for the separated Burma would be required. Secondly it would be necessary to separate the finances of the two countries and to determine in other respects their mutual rights and obligations. And, lastly, there are all those arrangements which may require to be made by agreement between two separated countries, arrangements, for instance, relating to commercial and trading conditions. The most that we can attempt at this stage is to sketch in outline the machinery which may be necessary for the investigation of these several matters.

92. **A constitutional commission.**—The Commission naturally do not themselves undertake to elaborate a constitution for Burma because, as they say, suggestions from authoritative quarters are not as yet forthcoming, and until the main question is settled, the consequent readjustments are hypothetical. But they indicate* that they do not contemplate that " the framing of a new constitution for Burma would be undertaken without full consultation on the subject with those having special knowledge of the working of the

*Volume II, para. 225.

present government, or until after further enquiry into local conditions and opinions ".

We should not anticipate that there could be any difference of opinion on the necessity for appointing some authoritative *ad hoc* body, whether commission or committee, to report upon a new constitution for Burma. Conflicting views may be held regarding the exact nature of this body. The Government of Burma set out two alternatives, either enquiry by a Parliamentary commission appointed by Royal Warrant or enquiry by a committee in which Burmans would be included. For reasons given in their letter the local Government prefer the former method, but would make provision to associate a select committee of the Burma legislative council with the work of enquiry both in Burma and in England. We do not ourselves feel called upon at this stage to express an opinion on these alternatives. But there is a considerable Indian population resident in Burma; and Indian capital and labour play an important part in Burmese business. The Government of India could not therefore disclaim all concern in the framing of a new constitution for Burma, and we would expect that in the process of enquiry Indian opinion would be given adequate opportunity to be heard on all matters touching Indian interests in Burma. These, however, are matters into which we need not now enter. Our immediate intention is to affirm the need which, in the event of separation being accepted, will at once arise for full and specific enquiry into the framing of a new constitution for Burma, a problem which has not yet been examined.

While we limit ourselves to stating this broad proposition, there is one matter of particular importance relating to the terms of reference to be given to those entrusted with this responsible task, on which the local Government comment, and to which we invite attention. When the announcement of August 1917 was made, Burma was, as it now is, a part of British India. The progressive realization of responsible government was promised to Burma equally with the rest of India. It is important that the pledge then given should be re-affirmed to a separated Burma. In some quarters doubts have been cast on the motives alleged to underlie official support to the policy of separation. If for no other reason, a clear statement of the continuing policy of His Majesty's Government should, in the event of separation, be publicly made in order to set such doubts at rest. We agree with the local Government that the point, which was not overlooked by the Commission,* can probably best be taken in the terms

*Volume II, para. 225.

of reference given to the commission or committee appointed for the purpose of the constitutional enquiry. We do not propose to discuss the lines on which this enquiry should proceed, but the organization of the defence of Burma will be a matter in which, as near neighbours, we may be expected to possess a continuing interest. For that reason, as also because of the present association of the two countries, we assume that the body charged with the constitutional enquiry will obtain the views of the military authorities in India on this question.

Lastly, before we pass on, we take this opportunity to state our agreement with the opinion* expressed by the Commission that, if separation takes place, the Governor General of India should cease to have any official responsibility towards Burma, and Burma should have a Governor of its own not subordinate to the Governor General.

93. **The financial settlement.**—The general financial aspects of the separation of Burma were examined by Sir Walter Layton in an appendix† to the report. We have already mentioned his general conclusion, which the Commission accept, that separation could fairly be effected in such a way as to do no financial injury to either country, and to leave Burma with adequate resources, and we have invited attention to the rather more cautious anticipation of the probable position made by our own Finance Department. The Government of Burma state that while they do not accept the assumptions made by Sir Walter Layton, they accept his general conclusion that there is no strong financial objection to separation.

It is clear that the separation of the finances of the country will raise extremely difficult issues, requiring close expert analysis, in the decision of which it will be essential to hold an even balance between what may be conflicting claims. We agree with the local Government that the best method of approaching this difficult problem is to endeavour, by mutual co-operation between the Government of India and the Government of Burma, to draw up an agreed statement of the case for reference to an impartial tribunal. The subjects requiring settlement will be of a technical nature, and will include, besides the normal questions of the adjustment of revenue and expenditure, such matters as the allocation of debt charges and the adjustment of currency arrangements. No constitutional commission could deal satisfactorily with these questions, for its functions would be entirely different, as also its probable methods of enquiry. In arriving at a

*Volume II, para. 226. †Volume II, pages 280-285.

financial settlement the main point to be considered is the need for satisfying public opinion in both countries that each is being fairly treated. Indian public opinion would watch this aspect of the arrangements very jealously, more particularly the allocation of debt burdens. We believe that a committee of the Privy Council would be the sort of tribunal most likely to satisfy Indian opinion. Their decisions could be given on evidence placed before them, assisted by expert witnesses, or possibly assessors, from India and from Burma.

94. **Trade agreements.**—There remain the matters to be settled by agreement. Those which we have principally in view are connected with trade and commerce between the two countries. It might be argued that the consideration of these aspects of the problem could be left over until separation is effected, a financial settlement reached, and a new constitution for Burma inaugurated. The contrary view might be taken by Indian critics, that Indian opinion would only agree to separation subject to satisfactory arrangements being made on such matters. We do not ourselves consider that this attitude could be sustained, but we recognize that the knowledge that India and Burma were agreed to work together to their mutual advantage in regard to these questions would facilitate the discussion of the overriding issue of separation. We therefore agree with the local Government that in the treatment of these questions, as in the collection of material on which to reach a financial settlement, the ground should be prepared and endeavours made to establish without further delay an agreed statement of facts to serve if possible as a basis for future arranements, which the two Governments, as they stand to-day, should agree to accept.

95. **Summary.**—After accepting separation in principle, we have in these paragraphs attempted to indicate in very general terms some of the more important issues involved, and to suggest machinery for their treatment. Should the policy of separation be adopted, these matters will require a very much closer examination in detail than it would be profitable for us to give them at the present stage, while the acceptance of the policy itself is still hypothetical.

THE CENTRAL EXECUTIVE.

96. **The conditions of the problem.**—We come now to the central Government and the main problem which it presents, namely, the nature of the central executive and its relations with the legislature. In considering the form of government at the centre it is necessary to remember that we are engaged in a process of transition from a system

of bureaucratic administration towards full responsible government. The process may be said to have commenced as soon as a legislature containing an elected non-official element was set up. It has been developed by successive increases in the elected element in the legislature and in the powers that the elected element enjoys, and also by the inclusion of non-official Indians in the central executive. We have already explained that in our view the time has not yet come for the final completion of this process, and that the present period of transition requires the continuance of an effective partnership between Britain and India. A partnership involves on both sides some measure of accommodation and compromise, and there is always a danger that it may lead to division of opinion. Nevertheless it is clear that on no other principle can we expect to devise at this stage a form of government at the centre which will provide for the essential interests and responsibilities of Britain, and at the same time give scope to the reasonable demands and aspirations of India.

97. **The existing form of government.**—It may be convenient at the outset to recall the framework of the existing structure of government at the centre. The Governor General in Council is responsible in all matters to the Secretary of State. The members of the executive Council are appointed by the Crown and three of them must be persons who have been for at least ten years in the service of the Crown in India. The legislature consists of two chambers, of which the first contains a substantial majority of elected members, though the nominated element consisting of 26 official members and 14 non-officials, is of sufficient size to play a very important part. The non-official Indian members of the Governor General's Council have not been drawn from the existing legislature and do not depend for their position on its support. The Government endeavour to accommodate their policy so far as circumstances permit to the views of the majority of the legislature. But this does not obscure the fact that ultimately they are responsible to the Secretary of State, and that in the last resort there are special powers by which they can secure what they deem essential in the matter of legislation or supply in spite of the opposition of the legislature.

98. **The working of the existing system.—Unity in the executive.**—In our view the main conditions of a strong Government on the lines which have already been drawn irrevocably for India are, first, internal unity in the executive, second, harmony between the executive and the legislature and, third, a sufficient backing from public opinion. We propose to consider in the first place to what extent these

conditions are at present realized. The existing system provides adequately for the first condition, namely, internal unity in the executive. All the members of the Governor General's Council are appointed by the Crown. An Indian member of Council may have made his name in political life, but on appointment to the Council he would be regarded as a temporary official, more amenable perhaps to popular influences than an ordinary official, but standing apart from the legislature, and for the time being lost to popular politics. The executive thus retains its unity.

99. **Relations between executive and legislature.**—The second condition however, namely, harmony between executive and legislature is on this very account most difficult to realize. There is no effective link between them, and it is important to see whether their mutual relations are such as to avoid embarrassing the Government as a whole. The Commission would almost seem to suggest an affirmative answer. It is true, as they point out, that a large number of Government measures have been passed by the Legislative Assembly, and that, though many of these are of subsidiary interest, some have been of great importance. It is necessary, however, to look below the surface. If the working of the system is analysed, it will be found that an appreciable amount of non-controversial business is got through by agreement ; that in matters important in themselves, but which do not seem to the executive to be in conflict with its vital responsibilities, the executive is prepared to let its decisions be largely guided by the views of the legislature, and that in matters which raise issues affecting the essential responsibilities of the executive, the latter is sometimes able with the foundation of a nominated official and non-official element totalling 40 out of 145 members to secure sufficient support from other groups to get its own way by a bare majority and after acute controversy. But there are occasions when the executive fails to carry in the legislature measures which it regards as of the first importance, and there are other occasions when it feels that certain legislation, even if not of an essential character, ought to be undertaken, but knowing that there is no chance of carrying it, refrains from introducing it. Thus, although at first sight it might appear that the executive is usually able to carry its measures, the real situation is that in any controversial issue the Government can seldom be certain of securing the support of the majority of the Assembly. It is true that their executive powers are unimpaired, though they are subjected to inevitable and ceaseless criticism. But the difficulty of ensuring a majority in the Assembly may frequently be a source of embarrassment

in projects of legislation or in obtaining supply. In these circumstances it is unlikely that what we have described as the third condition of a strong Government should be realized, namely, a sufficient backing from public opinion. Indeed, as we indicate below, controversies in the Assembly definitely tend to injure the credit of the Government in the country.

100. **Causes of lack of harmony.**—It is no part of our case to impute the blame for these conditions either to the executive or to the legislature. It is merely a practical illustration of a familiar feature of representative government of this type, where an irremovable executive is confronted with a popular Assembly in which it can command only a minority of votes. Personal influence and a spirit of goodwill may do something to mitigate the tendencies which make for disagreement between the executive and the legislature. But the tendencies themselves are inherent in the system. On the one hand there is a legislature with a substantial majority of elected members entrusted with wide powers but with no real responsibility. The legislature can and does in many matters influence profoundly the policy of the executive. But it can hardly feel that the policy is really its own. It cannot secure that those who determine policy should be in general sympathy with its views, nor can it be called upon to assume responsibility for the action which it recommends. In these circumstances it is natural that considerable elements in the legislature should develop primarily an attitude of destructive criticism and find themselves in constant conflict with the executive, partly on the merits of particular proposals, and partly as a protest against a position which they resent, and from which they can only hope to escape by undermining and weakening the authority of the executive. The executive on the other hand, while it retains its normal powers of executive action, and is even able in emergencies to override the decisions of the legislature in matters of legislation and supply, nevertheless suffers from the loss of public credit and confidence which result from conflict with the legislature. Public opinion counts every year for more and is expressed in an increasing degree in the legislature, where it finds a conspicuous platform for the purpose of extending its own influence and denouncing the policy and action of Government. Conversely the criticism of the executive by the elected members in the Assembly, characterized as it not unnaturally is by the normal exaggerations of political controversy, receives wide publicity and support in the press throughout India, and so magnified has tended to generate feeling and friction. The Statutory Commission refer rightly to the danger of the authority of

Government being undermined by continuous and unjustifiable attacks. Publicity is suggested as a corrective, but satisfactory publicity for a Government placed in the position we have indicated above is difficult to secure. The only effective remedy is to enlist a greater degree of popular support.

101. **Outline of proposals of the Commission.**—Having given a general picture of the existing constitution at the centre and the way in which it works, we have to consider against this background the proposals of the Commission for the future. The Commission suggest no change as regards the responsibility of the Governor General in Council to the Secretary of State, and they have been unable to propose any definite restriction of the field in which the Secretary of State will exercise his powers. In all matters, with the exception of those covered by the fiscal convention, the principle of which, however, they do not approve and would not extend, the Commission contemplate that the Governor General in Council will remain subject to the orders of the Secretary of State. The Commission further insist* in very emphatic language on the unity of the Council. "Unity in the central executive must be preserved at all costs". They propose to continue the requirement that three of the members of the Governor General's Council should be persons who have been for at least ten years in the service of the Crown in India. They put forward, however, two important suggestions in connection with the appointment of members of the Council. In the first place they suggest that the members should be appointed by the Governor General instead of by the Crown, and in the second place they suggest that some of the members of the Council should be taken from among the members of the legislature. At the same time they propose changes in the composition of the legislature which might have far-reaching effects. They contemplate that the Assembly should be composed by indirect election from provincial councils, that its numbers should be raised from 145 to something between 250 and 280 and that the official element should be reduced from a total of 26 to 12, to which would be added the members of the Governor General's Council. We discuss the general question of the substitution of indirect election for the present direct method when we come to deal with the central legislature. But it is in point here to observe that there is little ground to anticipate that this change would produce a legislature of which it could be predicted that it would work harmoniously with the executive contemplated by the Commission. In any case it is evident that these proposals would completely change the balance of the legislature, and that the proportion which the official

* Volume II, para. 165.

element bears to the whole would be so small that it would be unable to exercise any appreciable influence.

102. **Implications and consequences of these proposals.**—It is necessary to examine fully the implications of these proposals. Such an examination appears to indicate that in practice they can hardly produce the strong central Government which the Commission desire to see. Indeed they carry a stage further a process which we consider has already reached the limits of safety. The policy pursued in the past in developing the constitution has been to make successive advances in the legislature, while maintaining more conservative treatment in the executive. That may have been a wise course as a matter of political education, but in other respects it has had consequences not salutary. As we have pointed out above, it has tended to foster irresponsible criticism in the Assembly, and placed the executive in a difficult position. A stage has now been reached when the appropriate course appears to be to endeavour to bring the development in the legislature and the executive into closer co-ordination. We should therefore prefer to pursue a somewhat more cautious policy in regard to the legislature, and to consider whether it is not possible to contemplate some development of the Commission's proposals for the executive in its relations on the one hand to the Secretary of State and on the other to the legislature, which would afford promise of more favourable conditions than these proposals, as they have been generally understood, would appear to contain. Under the proposals of the Commission we fear the executive would find itself constantly faced with the dilemma either of conflict with the legislature, under conditions in which it could never expect a majority, or of subordination to the views of the legislature. The answer suggested by the Commission to this line of comment is that in fact Government policy will be profoundly affected by the action of the legislature, and that the executive will to an increasing degree be responsive to the will of the members of the Assembly. This doctrine of "responsiveness" is one to which we ourselves attach great importance, but it must be recognized on the one hand that it cannot be applied when the popular view is in opposition to the policy which Parliament considers it necessary to pursue, and on the other hand that when it is applied consistently it approaches very near to responsibility. Responsiveness to the legislature is difficult to combine with a strict adherence to the principle of responsibility to Parliament over the whole field. We shall deal with the matter more fully later. At this point we only wish to suggest that the difficulties inherent in the situation would be greatly enhanced by constituting the executive and the legislature on principles which

would widen the gap between them. We do not deny that there must in present conditions remain an appreciable degree of incompatibility, but our aim should be to reduce that incompatibility so far as circumstances permit. If, as we hold, the Commission were right in taking the view that the present popular character of the legislature should not be impaired, any adjustment must be sought in revision of the composition of the executive or of its responsibilities. In regard to the latter point we have already suggested that it may be possible for Parliament to restrict its interest to certain definite purposes, a course which would have important effects on the relations of the central executive and its legislature. In regard to the form of the executive it may be that, in order to obtain a greater degree of harmony with the legislature, we shall have to sacrifice something of its internal unity. We do not fail to realize the great importance of effective unity and shall endeavour in any suggestions we make to promote its retention in the greatest degree possible. But we do not think that all other considerations can be sacrificed to the attainment of this one object, or that internal unity in the executive without any degree of harmony between the executive and the legislature will yield a strong or even a tolerable Government.

103. **The possible methods of sharing power.—Exclusion of certain functions from the field of the central Government.**—We have made it plain that in our view conditions at the centre involve an inevitable duality or sharing of power between Parliament and the Indian legislature, and we now proceed to consider the various constitutional forms by which this essential fact might receive expression. The most extreme and rigid method would be to exclude certain subjects from the purview of the Indian legislature, and to administer them in unqualified responsibility to the will of Parliament. As a means of dealing with strictly limited problems for very special reasons it deserves consideration, and we shall discuss below the proposals made by the Statutory Commission for excluding from the sphere of the Governor General in Council the administration of the army, and the exercise of paramountcy in regard to the Indian States. But the objections to any considerable extension of this system are obvious. Constitutionally it may be distinguished from dyarchy in that in the main sphere of government there would be no division. But if the excluded sphere were appreciable there would really be two Governments, and that is clearly not an arrangement which could be contemplated. Moreover, even if the excluded sphere is limited, such a plan involves a separation of the functions of government to which there are substantial objections.

104. **Exclusion of rights of paramountcy in relation to Indian States.**—The specific proposal, however, made by the Commission that in future the Viceroy, and not as at present the Governor General in Council, should be the agent of the Paramount Power in its relations with the Princes, appears to us to rest on a sound basis and has our full support. We give in detail later the reasons on which this conclusion is based. It is sufficient at this point to state that we regard the exercise of paramountcy over the States as not one of the natural functions of the Government of British India, and we recommend accordingly that it should be vested in the Viceroy alone.

105. **Suggested exclusion of defence.**—The Commission have proposed, for special reasons, that the problem of the defence of India should also be solved on the lines of exclusion. They suggest that a definite agreement might be reached between India and Great Britain, acting on behalf of the Empire, whereby the forces composing the existing army in India would no longer be under the control of the Government of India, but would be under an Imperial authority, which would naturally be the Viceroy acting in concert with the Commander-in-Chief. The Imperial authorities would undertake the obligations of Indian defence in return for the continued provision of definite facilities as to recruitment, areas, transport and other matters. It is suggested that there would be an equitable adjustment of the burden of finance, a contribution subject to revision at intervals being made from Indian revenues, while it is foreshadowed that the balance of the expenditure would be borne by Great Britain. The central legislature would not vote the annual sum required for the army, the appropriation of which would be authorized by certificate of the Governor General. It is suggested that a committee on army affairs should be constituted, on which the central legislature would have representatives, for the purpose of discussing and keeping in touch with military questions. The military administration would have to be secured in all necessary control over its own dispositions and arrangements, and would have the right to demand the co-operation which it now enjoys from the civil authorities. We examine elsewhere the more practical administrative aspect of these proposals. At this point we confine ourselves to a consideration of the scheme in regard to its constitutional implications.

106. **The constitutional aspects of this suggestion.**—The Commission have been greatly impressed by two incontestable facts. The first is that the defence of India involves interests in which the whole Empire is concerned. The

second is that, though we look forward to a future in which India will assume responsibility for her own defence, for the present and for many years to come the defence of India must rest on an army which includes a large British element. From these two facts the Commission draw the conclusion, which we fully accept, that Parliament cannot now or in any future which is within sight divest itself of all responsibility for the army in India. The Commission view this conclusion as involving an obstacle in the way of progress to full responsibility. We agree that the problem of defence is the most serious difficulty that stands in the way of India's attainment of fully responsible self-government, and that it is likely to continue longest. But at the moment it is by no means the only difficulty, and we think it is important not to suggest that its removal would at once clear the way to fully responsible government over the rest of the central field. It is evident that that is not the view of the Indian Statutory Commission. On the contrary, according to their plan, after the exclusion of the army from the sphere of the Government of India, that Government would still remain irresponsible to the legislature. It is doubtful therefore whether under this proposal of the Commission there would be any immediate gain to India's constitutional progress, and we are somewhat apprehensive of a premature decision. Conditions do not remain static, and it seems to us not impossible that, by retaining the army for the present under the control of the Government of India, a workable partnership in its administration may gradually be evolved by means of the natural processes that we hope to see set up by the new constitution. On the other hand we do not in any way ignore the advantages promised by the proposal, even if the full effects of these might not be immediately felt, and we are of opinion that so far as concerns its constitutional aspect, much must depend on the attitude of Indian opinion. If that opinion expressed itself definitely in favour of the idea, we should certainly recommend that it should be further examined.

107. **A scheme contingent on exclusion of defence.**—In this connection one of our number wishes to draw attention to a scheme which in his view would deserve careful consideration, if it were found possible in agreement with Indian opinion to place the administration of the army and the defence of India in the hands of the Governor General. With this barrier to constitutional advance removed, he suggests that a form of central executive might be considered which would make feasible a considerable measure of responsible government. The scheme would recognize fully the

concern of Parliament for securing certain purposes which we have described elsewhere, and the principle would be that after providing means whereby the duty resting on Parliament in respect of such matters might be discharged, responsibility for the rest of the administration would pass to ministers answerable to the legislature. The feasibility of the scheme admittedly depends in the first place on an agreement by British and Indian opinion to remove the administration of the army from the province of the Government of India and place it in the hands of the Governor General. With the elimination of this responsibility and of the exercise of paramountcy over Indian States, which we have already recommended should be the function of the Viceroy and not of the Government of India, it is suggested that the way would be left open for the functioning of a unitary Cabinet, responsible to the legislature and administering all the remaining departments of Government, but subject to the overriding control of the Governor General in all those matters in which Parliament found it necessary to maintain its responsibility. Though the administration of all subjects, except the two which would be excluded from the functions of the central Government, would be conducted by ministers chosen from and responsible to the legislature, the ministers would in cases which affect the responsibility reserved to Parliament be subject to the exercise by the Governor General of extraordinary powers of direction and veto. For the effective exercise of the powers reserved to the Governor General, it would be necessary that he should be suitably advised. It is suggested that one way in which this purpose could be served would be through the appointment of two or, if found necessary, more advisers of suitable experience and standing, who would be charged with the special duty of pointing out when a course of action or abstention from action was calculated adversely to affect the interests which it was the duty of Parliament to safeguard. Such advice would be tendered in the first instance to the minister concerned, and in the event of the minister's refusal to accept it, it would be for the Governor General to decide either forthwith, or after consultation with the Secretary of State, whether the occasion demanded the exercise of his special powers. With the secretaries in the various departments would rest the duty of seeing that all important questions, even remotely likely to impinge on the sphere in which Parliament maintained its responsibility, were submitted to the ministers through the advisers, who would thus be in constant touch with the important day to day administration of departments. Finally, the Governor General would be armed with the powers requisite to enforce a decision both in the field of legislation and finance, and the ultimate power of

suspending the constitution would also be a necessary corollary. It would be specially necessary to provide for the responsibility of Parliament in the financial field. The repayment of the public debt of India and the interest thereon, the charges due from the Indian exchequer for the cost of Indian defence, the pay and pensions of officers appointed by the Secretary of State, would all need to be specifically provided for by making them a first charge on Indian revenues, and the management of the currency would need to be entrusted to a reserve bank suitably constituted and placed on a statutory basis. The fulfilment of certain conditions, such as the establishment of a reserve bank of this character and the constitution of a statutory authority for the control of railways, would precede the inauguration of such a constitution. These preliminaries, which would be of a definite and specific character, need not however relegate its introduction to an indefinite or unreasonably distant date.

It is recognized by our honourable colleague that it is possible to urge objections, not without force, to such a constitutional project, and to express doubts, not without justification, as to its operation in practice. The important question, however, in his opinion is whether on the one side the proposal to confine the limits of Parliamentary interference within as narrow boundaries as possible, and the manner of its exercise, would find acceptance, and on the other whether certain inevitable limitations of authority would meet with acquiescence. The advantage claimed for the scheme is that it permits of a unitary Government at the centre, of a healthy development of parliamentary life, procedure and conventions impossible under any dyarchic scheme, and that it goes a considerable distance on the road to self-government without the sacrifice of essential interests and without embarking on a course which in case of necessity would not permit of reconsideration. Further constitutional development would need neither fresh legislation nor fresh sanction from any authority. Given good sense and goodwill on both sides, progress would be automatic and would take the shape of the non-exercise of the Governor General's powers of control, which would alone stand in the way of complete responsible government, except in so far as the army was concerned.

Our honourable colleague makes it plain that his plan is contingent on the acceptance by Indian opinion of some arrangement in regard to the army on the lines adumbrated by the Statutory Commission. So far as Indian opinion has yet disclosed itself, we see little prospect of any such arrangement being accepted. We do not therefore propose to

examine the practical difficulties which under such a scheme might arise both in connection with the administration of finance and the maintenance of the ultimate responsibilities for law and order throughout the country. At this stage we merely state the scheme. If, contrary to our expectation, Indian opinion were prepared to accept the suggested exclusion of the army from the functions of the central Government, it would be necessary to examine more closely these difficulties and the general implications of this method of approach to the problem.

108. **The solution of dyarchy.**—The second possible method of meeting our difficulties is to introduce into the central Government the system of dyarchy. It might appear strange if dyarchy were adopted at the centre at a time when it has fallen under popular condemnation in the provinces and is there being abandoned. Nevertheless, we must remember that in part at least its condemnation in the provinces was due to the fact that it was only a half-way house, and in the centre we are admittedly concerned to find some constitutional form which will permit of a sharing of power. Further, we have to take account of the fact that the Indian Central Committee have recommended the introduction of dyarchy in the centre. We must therefore examine fully the case for and against it.

109. **Examination of dyarchy.**—Dyarchy is the strictly logical solution of a situation in which it is desired to base the authority of Government in different matters on two different sources. It can be claimed that it constitutes a frank recognition of the facts. There is no ambiguity as to where the responsibility for particular decisions lies, and no blurring of the edges. It is a system plain and precise. And because it eliminates ambiguity it enables each side of the Government to pursue its policy unembarrassed, in a political sense at least, by the decisions of the other. But, however valuable dyarchy may have been in the provinces at the inception of the reforms, in practice it is obvious that a division of the Government into two halves charged with responsibility to different authorities is at best an inconvenient plan. It is easier to divide a Government on paper than it is in actual working, and when dyarchy was introduced in the provinces it had to be recognized that special devices were necessary to promote the co-operation of the two parts which had been formally divided. The Statutory Commission in their review of the working of the provincial constitutions are disposed to think that the object with which the system was established, namely, to make plain the responsibility of the two sides of the Government, was in fact very imperfectly

attained. *" The intention of dyarchy " they remark " was to establish within a certain definite range responsibility to an elected legislature. If this intention is not carried out, the justification for the constitutional bifurcation and for all the complications which it brings in its train is difficult to find ". If, on the other hand, the responsibility on one side to Parliament and on the other to the Indian legislature were constantly emphasized, the task of reconciling these two distinct sources of power would be likely to prove increasingly difficult. Ministers would be bound to concentrate on the responsibility which they owed to the Indian legislature and disregard the embarrassment which their policy might be causing to the reserved side, for the successful working of which they had no responsibility. If for instance, in the central Government commerce were a transferred subject, and finance reserved, it might well happen that a popular policy in the Commerce Department in regard to tariffs might have the most serious effects on the general finances of the country. Nevertheless, if responsibility for the tariff policy had been formally made over to popular control, while responsibility for the general finances of the country was reserved in official hands, there would be little inducement for the popular ministers to moderate their commercial policy and serious friction would be likely to develop. Experience seems to show that it is difficult to work in watertight compartments. If the endeavour is made, the system will break down : if it is not made, the advantages of a formal dyarchy are not clear. It is no doubt argued that dyarchy, by relieving ministers of responsibility for unpopular decisions taken on the reserved side, enables them to continue in office where this would be difficult if they were members of a unitary Cabinet. We do not under-estimate the importance of this consideration, or the embarrassing position that popular members might occupy in a unitary Government. On the other hand, the formal division of responsibility tends to confine the effective action of ministers to the transferred subjects, and deprives them of the opportunity of dealing, except by way of criticism, with the difficult problems of Government which arise in the reserved sphere. Moreover, it must weaken the authority of the Government, when one part of the Government can openly disclaim responsibility for the decisions taken by the other. We are not insensible to the fact that in existing conditions there must be an inherent difficulty in attaining complete unity within the Government at the centre except at the cost of serious lack of harmony with the legislature. But unity should be the ideal, and it does not seem to us to wise course

*Volume I, para. 232.

to emphasize the duality by adopting a system of formal dyarchy. We must look eventually to the emergence of a unitary responsible government, and we should hope that this might be sought through a process of development, whereby the exercise of existing powers will lead by a natural transition to the acquisition of fresh powers, and those fresh powers will be exercised by men who have already acquired some experience in handling them. Dyarchy on the other hand offers no possibility of an extension of the sphere of responsibility except by way of an abrupt transition.

110. **To what extent could power at present be transferred.**—The crucial question which must arise in the consideration of any proposal for dyarchy is where the division between the reserved and transferred spheres is to be made. The proposal of the Indian Central Committee is that only the subjects of defence and foreign and political relations should be reserved. If it became possible to make such a division of power, it may be admitted that some of the difficulties we have indicated above in connection with dyarchy would be diminished. The Indian Central Committee indeed contend that the subjects of defence and foreign relations are sufficiently distinct and separable from the other functions of the central Government as not to produce, if reserved, any of the complications which accompanied the working of dyarchy in the provinces. We are not prepared to go so far as this, but it may be conceded that defence and foreign relations could be separated from the other functions of the central Governm[redacted] not without inconvenience, at any rate without givi[redacted] to some of the more acute problems that would r[redacted]rom a reservation of other subjects such as finance a[redacted]w and order. We are by no means disposed to unde[redacted]mate the advantages that would be secured from the a[redacted]n of any scheme on the lines indicated by the Indi[redacted]ral Committee, or to press beyond a reasonable po[redacted] administrative objections to a formal division of powe[redacted] If it were possible to adopt such a scheme, a Governme[redacted] would be established at the centre working in agreement with the legislature, and covering all the principal domestic activities of the country, apart from those which would be directed by responsible Governments in the provinces. There is a strong demand among those who are stirred by the rising feeling of nationalism that India should be allowed to manage her own affairs at the centre, as in the provinces, and, above all, that she should have a chance of devising and pursuing a national policy in matters of finance, commerce and industry, which might improve the general economic conditions of the country. In recent years there has been an increasing volume of

criticism directed to the poverty of India and her economic backwardness. For these features an alien Government is held responsible. There is a widespread belief that the economic disabilities of India could be removed by a national economic policy, and an equally widespread suspicion that the interests of India and Britain in this matter do not coincide, and that, as long as India's economic policy is controlled by Britain, India will not have a fair chance of developing her resources and raising the general standard of life of her people. We cannot of course admit that there is justification for this feeling. But there is no doubt that it exists, and that it is being used more and more to stir up discontent against the present system of government. If it were feasible in the way outlined by the Indian Central Committee to establish the principle of responsible government at the centre, and to put it into practice on a large scale, particularly in the economic and financial spheres, it might be expected that Indian sentiment would be to a great extent satisfied, and Indian suspicions of the real intentions of Britain allayed. But all depends on the possibility of an immediate transfer to popular control of the central administration of finance, commerce, and law and order.

111. **The problem of transferring finance and commerce.**— It must be frankly recognized that the control of finance is fundamental, for finances has a bearing on all the activities of Government. It is sufficient here to state the position in very general terms for we deal fully with the subject in another place. The points wh[redacted] have found it necessary there chiefly to emphasiz[redacted] the magnitude of the interests hitherto safeguarded[redacted]r the responsibility of the Secretary of State, and the[redacted]us effects which any transfer of this responsibility[redacted]t have through its reaction on India's credit.

The financial administra[redacted]ffects the credit of the country, not merely in the li[redacted]sense of determining the conditions on which it can borro[redacted]oney, but in the broader sense of the confidence felt in the [redacted]ministration by all those who do business or have property in India. A serious shock to India's credit, leading as it undoubtedly would to large movements from the country of capital both Indian and European and to a restriction of new enterprise, might have results so far-reaching as to endanger the entire economic fabric on which India of the present day depends. It would do nothing but disservice to Indian interests for the British Parliament to transfer its responsibility for Indian financial administration, until the foundations for confidence in the policy of those who would control affairs under the new régime had been established. At present, in view of the

general attitude of Congress and the talk of repudiation of debt, such confidence, however unjust this may be to India as a whole, is conspicuously lacking.

It is not our purpose to argue that these considerations create permanent and insurmountable obstacles to any transfer of financial responsibility, but the practical conclusion to which we feel impelled is that, before so fundamental a change can safely be undertaken, there must, on the one hand, be careful preparation including the fulfilment of certain conditions, which we define elsewhere, and on the other, Indian leaders must collaborate with the Government in the fulfilment of these conditions, and must on their own account take steps to create confidence in the policy which an Indian government might be expected to pursue. We do not wish to exaggerate the difficulties, but we feel that the greatest service which the present Government can render to India is to face them frankly, and to do its best to work together with Indians to overcome them. We deal more fully with this question in the section dealing with finance.

In one important respect commerce is hardly separable from finance, for the customs head is the principal source of central revenues, and this fact must have its due place in shaping tariff policy. It must be recognized therefore that until finance is transferred the popular control of the tariff would be incomplete. But commerce has problems of its own quite apart from its connection with finance. It may be difficult to devise effective guarantees, which would secure British firms and companies doing business in India against unfair discrimination, and to provide for the efficient commercial management of the railways, which the experience of other countries has shown may be seriously endangered when the management is in the hands of those who must maintain harmonious relations with a popular Assembly. We do not regard either of these difficulties as insuperable, and in a later section of this despatch we shall consider them in greater detail.

112. **The problem of transferring law and order.**—In regard to internal tranquillity, a critical change is being made in the provinces by transferring to popular control the administration of law and order. Until the results of this change have been observed, it does not seem to us possible for Parliament to part with the power to maintain the ultimate guarantees of stability. It is sometimes argued that if law and order is transferred in the provinces, there can be no reason for not following a similar course at the centre. But we have no doubt that the provincial Governments in accepting the proposal of a transfer of law and order in the provinces are to a considerable extent relying on the

maintenance of existing conditions at the centre. It is the central Government which is responsible for the ultimate conditions of internal security throughout the country. It determines the military forces required for this purpose and their disposition. It lays down principles for the administration of the Arms Act. On it rests the duty of keeping intact the general structure of the criminal law and procedure, which forms the essential framework for the maintenance of internal tranquillity. It must co-ordinate information and policy in regard to subversive movements of an all-India character, such as those which are continuously pursued by the terrorists and by the communists, or widespread *anti*-government activities such as the present campaign of civil disobedience. In carrying out these duties it has hitherto seldom been possible for the executive to rely on support from the bulk of popular opinion in the Assembly, and, until experience has been gained of the manner in which similar problems are handled locally by responsible provincial Governments, it is unlikely that Parliament will be willing to contemplate the transfer to popular control at the centre of the ultimate safeguards of security throughout the country. Our honourable colleague who has drawn attention to the scheme described in paragraph 107 wishes, however, to make it clear that in his view the safeguards suggested in that scheme would be sufficient to justify the degree of responsibility, both in regard to finance and to law and order, which is there proposed.

113. **A unitary government.—Proposals of the Commission.**—If there is force in the general conclusions stated above, it would seem necessary to look to some solution on the lines of a unitary Government such as is contemplated by the Indian Statutory Commission. But a decision, in favour of a unitary Government of this type does not get rid of the difficulty that there must be some sharing of power between two different legislative bodies, namely, Parliament and the Indian legislature. The Commission were, no doubt, not less conscious than ourselves of the importance of harmony between the executive and the legislature, and were anxious that whatever is possible should be done to establish satisfactory relations between these two elements. They hoped to achieve this object along three lines. In the first place they have proposed that the members of the Governor General's Council should be appointed not as now by the Crown but by the Governor General. This evidently introduces a considerable degree of elasticity into the formation of the Council. It is not only that the appointment of members in accordance with the requirements of the local situation would be facilitated, but that

they would no longer have a fixed term of office of five years. Under the new system they would in fact, subject to the direction of the Secretary of State, hold office at the pleasure of the Governor General. The Governor General would retain his existing power to make rules for the transaction of business in his Council and to distribute portfolios. We presume that the determination of the numbers of his Council would, subject again to the superintendence, direction and control of the Secretary of State, rest with him. The only formal restriction that would exist on his selection of members of his Council would be that the existing rule would be maintained, under which not less than three of the members of his Council must be persons who have been for at least ten years in the service of the Crown in India. We attach considerable importance to the change suggested in the method of appointment of the Governor General's Council. It does not necessarily lead directly to responsible government, but historically the substitution of the Governor General for the Crown as the appointing authority has proved in the Dominions to be an important condition in the development of responsible government. In the second place, the Commission have suggested that opportunity should be found to include in the executive Council one or more elected members of the Assembly or of the Council of State. It is clear that this proposal has potentialities of great significance, and these we shall proceed to examine. Finally, as we have already mentioned, the Commission lay stress on the power which the elected representatives in the central legislature possess to influence the executive Government in all fields of administration and legislation. They express the belief that this influence will steadily increase and that the executive will become more and more responsive to the will of the legislature. We have no doubt that the Commission have rightly foreseen one of the developments in the relations between the executive and the legislature which must follow on their proposals. But we shall explain in what way we should anticipate that these relations are likely, and indeed certain, to develop.

114. **Inclusion of members drawn from the legislature.**— We now proceed to examine the two features in the scheme of the Commission, which seem to us to require further elaboration. We welcome, as we have said, the proposal that elected members of the Assembly or of the Council of State should be included in the Governor General's Council. But the inclusion of individuals, however prominent in public life, will not in itself secure the object at which we are aiming, namely, the promotion of harmony between the executive and the legislature. As the Commission have pointed* out, there is

*Volume I, para. 235.

a natural tendency to regard even an elected minister under the system of dyarchy as in some degree tainted by his association with Government. When it is a question of joining a Government which cannot technically be responsible, this tendency will be much stronger. Unless something is done to counteract it, we fear that the Governor General will be unable to obtain for his Council the authoritative Indians desired by the Commission, or that if he does obtain them they will soon lose their authority. This tendency would, we think, be accentuated by the suggested provision that on appointment to the executive Council they should cease to hold their seats by virtue of election. Our view therefore is that, if real value is to be derived from a proposal which contains the promise of hopeful developments, it is necessary not only that the members appointed from the legislature should retain their seats as elected members, but that it should be recognized that they will remain in touch with, and responsive to, their political supporters. We develop in paragraph 116 below the conditions on which alone as we believe they might look to retain political influence in the legislature, and so be able to assist Government not only by their personal contributions to the problems of administration, but by bringing to Government some prospect of support for the policy in the framing of which they will have been associated.

115. **The practice of responsiveness.**—An examination of the working of "responsiveness", on which the Commission lay so much stress, leads us by a different road to the same conclusion as that expressed at the end of the last paragraph. Even at present the executive endeavours to be responsive to the legislature. The disadvantages of the system, however, have made themselves very apparent in the experience of the last few years. We have shown above how the function of the Assembly is inevitably one of criticism, as long as it has no responsibility for a constructive programme. Efforts have been made by the Government of India, particularly in recent times, to escape from this difficulty by consulting the party leaders on matters of policy before they themselves reach their conclusions. This system is probably inevitable, given the existing conditions, which would in this respect be reproduced under the proposals of the Statutory Commission, but it has not proved satisfactory. The party leaders have little inducement to have regard to anything other than the popular view as reflected in the Assembly, and the Assembly having no comprehensive responsibility for policy is likely either to take a critical and negative line, leaving the Government still unrelieved of the responsibility for finding a constructive solution for urgent problems, or to advocate

proposals, the full consequences and reactions of which on other interests or in other fields of administration have not been thought out. From the nature of things it is impossible that the party leaders should have the same sense of responsibility as members of the Government. If their advice is accepted and the results prove unfortunate, the discredit falls not on the party leaders but on the Government. If on the other hand their advice is not accepted, the Government is accused of being unsympathetic and unresponsive to the popular view, and there is no improvement in the relations between the executive and the legislature. Indeed if the advice of the party leaders is constantly rejected, these relations are likely to deteriorate. Such a state of affairs really makes neither for harmony between the Government and the Assembly, nor for strength and steadiness of purpose in the Government. We are convinced that if leaders of parties in the Assembly are to be taken into consultation, as they must be on any principle of responsiveness, it is better that they should be inside the Government rather than that they should advise in an irresponsible capacity from without.

116. **How a Government of this type might be expected to work.**—The conclusion of these arguments seems to point to a Government which, while containing a definite official element, and not formally responsible to the Indian legislature, would yet include an appreciable popular element consisting of elected members of the legislature, who might command sufficient support in that body to afford in normal circumstances the promise of reasonable harmony between the executive and legislature. The proportion which the elected members should bear to the official members might no doubt receive consideration, if suggestions on these lines were discussed at the Round Table Conference. It will naturally be asked how the elected members of the Government associated with an official element are to retain their following. The answer is that they must be able over the widest field that circumstances permit to frame policy in accordance with the views of their supporters. This in turn implies that Parliament will be willing to define with some precision the purposes for which it would wish to exercise its constitutional right of interference with the policy of the Government of India, and that so long as the policy pursued does not menace the objects which Parliament declares its intention to safeguard, the Government of India will be at liberty to manage the affairs of India in close association with the Indian legislature. We shall in a later paragraph of this despatch indicate what appear to us essential purposes which His Majesty's Government must safeguard. On the assumption that the exercise of the duties

of paramountcy in relation to the Indian States is transferred from the Governor General in Council to the Viceroy as representative of the British Crown, these purposes may be briefly summarized as defence, foreign relations, internal security, financial obligations, financial stability, protection of minorities and of the rights of services recruited by the Secretary of State, and prevention of unfair discrimination. The primary responsibility for ensuring that these purposes of Parliament were not impaired would rest upon the Governor General, but he would have, to assist him in this task, the three official members of his Government, who would naturally hold the portfolios in which the questions of more particular interest to Parliament were likely to arise. Their position in the Government would presumably ensure that the general administration of such subjects would be in harmony with the views of Parliament, and that there would seldom be occasion for the Secretary of State to interfere by express direction or veto. But the official members would be part of a Government containing, if the system were working successfully, a considerable popular element in intimate relations with the legislature. In these circumstances it seems certain that the official members would not press their views beyond the real requirements of the situation, and that the popular view would receive the fullest consideration. In most cases we should anticipate that the Government would be able to reach united conclusions, which would not infringe the responsibilities which Parliament would look to the Governor General and the Secretary of State to discharge. When, however, there was an irreconcilable difference of opinion between the two elements in the Government, it would be for the Governor General in consultation, where necessary, with the Secretary of State to decide which view was to be supported. If he accepted the popular view, the official members would have the right to record the grounds of their opinions and have them transmitted to the Secretary of State, and would thus know that they had discharged their responsibilities by referring their difficulties to the ultimate authority, whose purposes it was their duty to safeguard. It may be supposed, however, that in matters which raised such issues the Governor General would be reluctant to reject the views of his official members. In that case the elected members might either acquiesce, or they might, whether as the result of pressure from their supporters or of their own personal convictions, tender their resignations. If the elected members resigned on any such issue, it is possible that the Governor General would be unable to get other members with a political following to take their place. In such an event he would be thrown back on the expedient of replacing them either by non-officials with no popular follow-

ing or unconnected with politics, or in the last resort by additional officials. If this happened the progress towards the development of responsible government would be interrupted, but there would be no question of suspending the constitution, and the Government would continue to function, though it would have to encounter the hostility of the legislature. The situation however would be no worse than if an unpopular measure or policy had to be pushed through or under the system sketched by the Statutory Commission. On the other hand, we are disposed to think that forces would be at work tending to restore the situation. We contemplate, as we have said, that the legislature would through the elected members have real power to pursue its own policy over a wide field. It seems unlikely that it would for a long period deprive itself of constructive power over policy merely in order to register its dissatisfaction at some particular measure. The greater the power the legislature had acquired, the less would it be likely to persist in such a course.

117. **Possibilities of deliberate obstruction.**—We must make it plain that the above argument proceeds on the basis of a general desire to work the constitution. We have not overlooked the possibility that in the earlier years of any new constitution there may be a party whose object is to exploit all political difficulties with a view to wresting from His Majesty's Government further political advance. The existence of such a party would undoubtedly increase the probabilities of the Governor General being deprived of the support of the legislature in carrying on his Government, and being thrown back for a time on an almost completely official composition. We should greatly deplore such a contingency, but, if necessary, it would have to be faced. In the long run we believe that the forces of reason and orderly progress would triumph over those of negation and obstruction.

118. **The scope of the popular element in such a Government.**—Hitherto we have been considering whether the kind of Government we have sketched would be capable of maintaining the objects which Parliament would wish to safeguard, and whether in so doing it would be likely to retain the popular element. We turn now to the wide scope of activities and responsibilities which would present itself to the elected members of the Government. In the first place they would within the Governor General's Council be enabled to press their views on all subjects, with knowledge of the strength which these views must derive from the support of the legislature. In the second place there is a large sphere with which we should hope Parliament would not find

it necessary to concern itself. Throughout this sphere we contemplate that the Governor General would be guided by the advice of those of his Council who represented the wishes of the legislature, and we would suggest that the Instrument of Instructions to the Governor General should contain a definite provision to this effect. A convention of this kind would offer a wide field for constructive work and for practice in the art of formulating and carrying through a popular policy, and thus the foundations of self-government at the centre would be laid. The official members of the Government would express their views and give counsel on these matters, but it would be recognized that here their primary duty was to see that the purposes of Parliament were not infringed.

119. **Members not removable by the legislature.**—From the point of view of maintaining the unitary character of the Government, we think it important that the members of Government chosen from the legislature should not be subject to direct votes of censure by the legislature or regarded by convention as liable to removal by that body, and that their salaries, like those of the official members, should not be submitted to the vote. It might be that the elected members lost popular support through no action of their own, but as the result of measures taken by the Governor General in exercise of his responsibilities to Parliament. If that were so, nothing would be gained by attempting to select new members from the legislature, for the act of joining the Government would in such case deprive them similarly of popular support. If in these circumstances the existing elected members were prepared to remain in the Government, the Governor General would clearly not wish to change them. But one or more of the elected members might lose his following for reasons other than his association with a Government which in discharge of its responsibility to Parliament had felt obliged to take action bringing it into conflict with the Indian legislature. In that case the Governor General would naturally see whether he could find other members of the legislature, who would more truly represent its views on those matters in which the framing of policy would primarily lie with it.

120. **Objections to a Government of this type.**—We are conscious that it is easy to take objection to a constitution drawn on the lines which we have attempted to indicate. It involves a form of dualism within the Government, it will not work harmoniously without goodwill, it can be attacked on the one hand on the ground that, owing to the strong influence of the elected members and the legislature, the responsibilities which the Government of India owe to Parliament will

not be fully discharged, it can be attacked on the other hand for its failure to offer clear cut responsibility on the popular side. Most of these objections are inherent in any attempt to share power. For the success of any such attempt it is necessary to assume a measure of agreement. Without this no constitution will function satisfactorily. It may be that some other method than the one we have adumbrated can be devised. But let the main elements of the problem be remembered. The executive must own responsibility in certain matters to Parliament. The legislature must on any supposition have a substantial popular majority. If a completely irresponsible executive is confronted by a predominantly popular legislature, the result must be intolerable friction. This is recognized by the Indian Statutory Commission, who have made certain proposals designed to reduce the probabilities of friction. We feel that those proposals point in the right direction, but that in order to produce a workable system of Government they must be interpreted and developed somewhat on the lines which we have sketched in the preceding paragraphs, and that it is essential to their working that Parliament should be willing to define with sufficient clearness the purposes for which it might deem it necessary to intervene. There may be other possibilities more acceptable to Indian opinion, and we consider that any alternative proposals that may be put forward to safeguard the purposes of Parliament should receive full consideration. We have already explained what appear to us to be the serious difficulties of any statutory and rigid distribution of subjects of administration to distinct portions of the executive with different responsibilities. If, however, it would help the admittedly difficult position of the popular members under the unitary scheme we have outlined that the conventional division of responsibility within the Government should be formally recognized, we should be prepared to make this sacrifice of the forms of unity, provided we might expect to maintain such a degree of harmony and co-operation between the two elements in the Council as would secure to the popular element training and experience over the whole field of Government, and to the official element reasonable support in the legislature.

121. **Powers of the Governor General.**—To complete our picture of the central executive it is necessary to consider specifically the powers which the Governor General will exercise and the position he will occupy. It is evident that the powers of the Governor General in relation to the legislature must remain unimpaired. In regard to legislation he must retain his existing powers of previous sanction and assent, and of

stopping proceedings on any bill which in his opinion affects the safety or tranquillity of British India. He must also retain his power of securing the passage of essential legislation by means of certification. We think, however, that the procedure of certification might well be made more simple and elastic. The Governor General should also retain his emergency power to make ordinances. In regard to the provision of money, the Governor General would keep his existing power to authorize, in cases of emergency, such expenditure as might, in his opinion, be necessary for the safety or tranquillity of British India. The power of restoring demands which have been refused by the Legislative Assembly is placed by the existing Act in the hands not of the Governor General but of the Governor General in Council. We think that in the new constitution this power would more appropriately be exercised by the Governor General. It will not be desirable to bring the Governor General in Council unnecessarily into conflict with the Assembly. The general principle of the suggested constitution is that the power to overrule the legislature should reside in the Governor General and we see no reason why this principle should in this one case be abandoned. It seems to us wiser to place the responsibility for securing supply, as for the passage of legislation, directly on the Governor General.

The relations of the Governor General with his Council will be fundamentally changed by the provision that members should be appointed by the Governor General instead of by the Crown. The elaborate provisions contained in section 41 of the Government of India Act for the Governor General overruling his Council will no longer be required. Technically indeed the Council will cease to be the colleagues of the Governor General and will become his advisers, and it will have to be made plain by statutory provision, either direct or indirect, that if the Governor General sees sufficient cause he may act otherwise than in accordance with the advice of his Council. We have already explained in paragraph 116 what we anticipate would be the possibilities open to the official and to the popular members when action is taken not in accordance with their advice. The appointment and dismissal of members of the Council by the Governor General will be subject to the superintendence, direction and control of the Secretary of State. It may be expected that the Secretary of State will not as a rule wish to be consulted in regard to the popular members. But we should anticipate that he would find it necessary in the discharge of his own responsibilities to require that the Governor General should not take action to appoint or to remove any official member without his specific concurrence.

122. **Potentialities of development.**—It must be expected that any scheme of government at the centre will be judged by Indian opinion on the promise it affords of development into full responsibility. We think that the suggested form of unitary government leaves the path open for such development on natural lines, and this is in our view perhaps its main attraction. No abrupt changes would be required. As Parliament recognized that the Indian legislature did not desire to pursue a policy inconsistent with the fundamental purposes which Parliament wished to secure, the occasions for interference would become less frequent. Simultaneously the necessity for retaining the official element in the Council would diminish. This element would with the approval of Parliament gradually be reduced, leaving what would in effect be a Government progressively responsible. Development would come, by normal constitutional evolution, through the wise use by the Indian legislature of its opportunities. Until such time as India is able to make her own provision for defence and internal security, we recognize with the Commission that special arrangements would be necessary for these subjects and for foreign policy. But over the rest of the field the process we have indicated might continue without interruption. This natural growth of the powers of the Indian legislature, through Parliament permitting its own powers of control, retained for specified purposes, to fall into disuse, could be accelerated if the intervening period were used to fulfil certain conditions, by which Parliament might be reasonably assured that its purposes were secured. As regards minorities, Parliament would no doubt require that adequate provision based on mutual agreement should be made for their rights and interests. In the spheres of finance, commerce and railways, we indicate below the conditions on which progress seems to us to depend. Finally, when Parliament had been assured of the successful working in the provincial field of the transfer of law and order, it might be willing to see the central administration of this subject placed in popular hands. When matters of this sort had been satisfactorily adjusted, a wide and definite transfer of power might take place, for the completion of this task would furnish proof to Parliament of India's ability to assume responsibility for those subjects, over which Great Britain would at present be likely to feel it necessary to retain a measure of control. In the meantime the preparatory work leading up to this transfer of power might be carried out, with perhaps a large measure of unanimity, by the kind of unitary government containing a popular element which we have sought to portray.

THE CENTRAL LEGISLATURE.

123. **Two preliminary points.**—We began our consideration of the problem of the central executive by presenting a general picture of the existing constitution of government at the centre, and the way in which it works. We discussed the relations between the executive and the legislature, and gave some prominence to the importance of trying to establish reasonably harmonious relations between them. We accepted the view of the Commission that the present popular character of the legislature should not be impaired, and made certain suggestions which seemed to us to flow from that conclusion for the construction of the central executive. The next matter with which we must deal is the composition of the central legislature. There are however two preliminary points which we wish to take. They are perhaps sufficiently obvious in themselves, but we think that it may be an advantage to state them. The first is again to emphasize the close inter-relation between the two questions of the construction of the executive and the composition of the legislature ; the second, which indeed follows from the first, is to disclaim any intention of putting forward suggestions here and now to give the central legislature its final form.

124. **The central legislature and public opinion.**—The reconstruction of the Indian legislature is perhaps the least vivid of the issues which have arisen in the recent political life of India. Under the present constitution the two chambers were constructed on principles which accorded well with the sentiment of the country, and it is possible that if India had not been formally confronted with the occasion for bringing under review every feature of the constitution, comparatively little attention would have been directed by practical necessities to this portion of the structure. So far as Indian constitutional thought has expressed itself, it does not stray far from the principles which the present legislature reflects. For the Assembly a number of the earlier schemes, and later the Nehru report, proposed a basis of adult suffrage, but it is perhaps a not unfair comment that these proposals were either the results of study of systems developed in other countries, or were put forward as a device for surmounting communal difficulties. Though some provincial committees recommended a limited element elected by provincial legislatures the general trend of opinion has been in favour of a directly elected, but enlarged, Assembly. The alterations proposed by the Indian Central Committee are matters of detail rather than of principle ; nomination is used to remedy inequalities in representation,

to retain officials, and to introduce experts without the right to vote.

As regards the upper house the prospect of a unicameral central legislature makes little appeal. The structure of the Council of State has attracted little attention. It is true that the Nehru report proposed to compose it through indirect election by the provincial councils after the method of proportional representation, but the general trend of provincial opinion leaves the Council of State much as it is now, and the Indian Central Committee would alter it only so far as to increase its numbers.

125. **Indirect election proposed by the Commission.**—We now have before us the recommendations of the Commission for radical changes in the construction of both chambers and the substitution of indirect for direct methods of election. The views on these recommendations expressed by local Governments show considerable divergencies, and opinions within each Government are often divided. The general impression, however, conveyed to us by the reports of the provincial Governments is that public opinion is not favourable to the changes which the Commission propose. So far as opinion has yet been made articulate, it appears, among Hindus, to be hostile to indirect election ; and, among Muslims, to be divided according to calculations of its effect on the representation of the community which it would secure. We cannot regard as final any of the views yet expressed. If after full consideration Indian opinion were to pronounce clearly in favour either of indirect or direct election, we would only on very strong grounds advise His Majesty's Government in a contrary sense. Our own view is that on principle the arguments in favour of direct election as the ultimate system for a Federal Assembly are the stronger, but we find definite practical advantages in the scheme of indirect election which the Commission put forward. The task, therefore, which we shall set ourselves in the paragraphs which follow, is to try to set out as fairly as we can some of the merits and demerits of the two systems of election, direct and indirect. But we defer our own final conclusions until the matter has been thoroughly discussed at the Round Table Conference and Indian opinion has expressed itself fully.

It will be convenient to deal first with the Assembly, and then with the Council of State.

The Lower House.

126. **The federal principle.**—The Commission have proposed that the Legislative Assembly should be reconstituted as a Federal Assembly* " the members of which would not

*Volume II, para. 135.

be directly elected by constituencies of voters, but would be mainly chosen, in proportions which we shall have to indicate, by the provincial councils ". If the central Government is to develop on federal lines, the Commission consider that* " the adoption of a method which will represent the provinces as such at the centre is extremely desirable ", and seems almost essential for the ultimate inclusion of the States. It may be that the representation of provinces by indirect election might facilitate at a later date the representation of the States in the Federal Assembly, but we would make two comments. The first is that it is far from certain that federation for the whole of India will come about by the inclusion of the States in the Assembly. It may be that some new federal organ will be developed. The second is that even if the States did enter the Assembly, it does not appear to us to be necessary that the method of representation of the States and the provinces of British India must be uniform. We should therefore hesitate to put the federal argument of the Commission too high.

127. **The representation of provinces.**—More substantial support for the principle of indirect election by provincial councils is found in the general relationship which the Commission desire to establish between the centre and the provinces. They remark that it is important that the provincial view should be brought to bear upon central administration, the more particular function which they have here in mind being the provision of revenue by the central Government for distribution to the provinces. So far as this function is to be exercised through the medium of the provincial fund proposed by the Commission, we may observe that decisions affecting this fund will be only occasionally before the Assembly, and it might be argued with some force that, in determining the composition of the Assembly, we should have regard to its suitability for dealing with the broad political issues that will normally be before it, rather than with a function performed only at infrequent intervals. According to Sir Walter Layton's scheme, however, the improvement of the financial position of the provinces will depend very largely on the surrender to them of central sources of revenue, and from this it would follow that they would have a direct interest in the whole financial administration of the central Government. This is a consideration of great importance, and it would not be unnatural for the provincial Governments to seek some means of protecting their interests, and for this reason to support the substitution of indirect election by the provincial councils in place of direct election to the Assembly. At the same time there is room for some misgiving whether

*Volume II, para. 138.

so great a degree of provincialization would be desirable in the lower house of the central legislature. The consequences on central administration might be serious, and might result in a policy unfavourable to the general interests of the country.

128. **The responsibility of the member.**—Another argument advanced by the Commission is that the method of indirect election may be expected to afford *"a closer nexus between the member of the Federal Assembly and the provincial council". The argument is based on the view which the Commission have taken of the general operation of the directly representative system, and their conclusion is that as the members of the Assembly cannot be subject to any real control by electors in territorial constituencies, they would feel greater responsibility to a provincial legislature. We shall revert in a later paragraph to the question of the size of constituencies under the direct method. Here we are concerned only with the relations which the Commission desire to encourage between the Federal Assembly and the provincial councils. Subject to the remarks which we have just made, we appreciate the advantages of establishing a link between the central and provincial legislatures. Indirect election by the provincial councils is probably the best method of securing that purpose; but it would still seem open to question whether the provincial contingent at the centre would acknowledge any real responsibility to the provincial councils. It must be remembered that members of the Assembly will retain their seats even when provincial dissolution has brought about the disappearance of the electors who returned them; and if elected, as suggested by the Commission, under the method of proportional representation, the tendency of each representative would be to look only to the particular group or interest which elected him.

In effect, so far as the Commission's scheme of indirect election rests upon the requirement of provincial representation at the centre and the need for a greater sense of responsibility on the part of the member, a dilemma is produced. Either the provincial contingents would be controlled by the provincial councils, and the central legislature be excessively provincialized; or they would not be controlled by the provincial councils, and the responsibility of members to those who elected them might be even less than under the existing method of direct election from large general constituencies.

129. **Proportional representation.**—The Commission claim that if use were made of proportional representation in selecting members for the Federal Assembly, it would be

*Volume II, para. 138.

possible to get rid of specific provision for separate communal representation. The Federal Assembly would no longer have to be constituted by the present method of classifying constituencies. At the outset the system would no doubt produce reflection of communal divisions. But in proportion as general considerations came to bulk more largely in the political judgment of the provinces, it would enable members to be returned to the Assembly on a more general view of their merits and political opinions. A result of that kind, involving an automatic decision of communal claims, would in our judgment be an attractive feature of any scheme, and we would hesitate to reject any plan which promised to get rid of precise communal proportions in the composition of the legislature. But just as in the absence of agreement between the two major communities separate representation for Muslims in the provincial councils must continue, and an adequate number of seats must be guaranteed to them, so we think that the question of the abandonment or the retention of direct representation at the centre ought to depend very largely upon the attitude which communities may adopt towards such a proposal. Subject to this, and apart from our own views on the more general aspects of indirect election, we wish to make it clear that we do not undervalue its possibilities as a means of avoiding specific communal representation at the centre.

130. **Personnel.**—The Commission have not alluded to the possible effects of indirect election on the personnel of the Assembly. There is, however, a body of opinion which suggests that the choice of the provincial legislatures would be more judicious than that of popular electorates, and further that if election were to be indirect, persons of local position and experience, who are at present unwilling to face the trials of popular elections might be more ready to come forward. We doubt whether the expectation is very securely founded. One result of employing the machinery suggested by the Commission would very possibly be to induce political associations or parties to make special efforts to capture seats in the provincial councils, not on provincial issues, but in order to secure the return of members who could be relied upon to vote for candidates of a particular type to the central legislature.

131. **The confusion of electoral issues.**—Indeed, the rôle which under the Commission's scheme political associations might play in central and provincial politics raises issues immediately relevant to the success of the new constitution. Under the method of indirect election, it will be the first concern of any party wishing to enter the Assembly to secure its own electors in the provincial legislatures. The whole

weight of all-India political associations would, therefore, be directed upon the local legislatures, where the novel experiment in the use of the transferable vote will itself tend to throw the business of the elections into the hands of party managers. Again, the Commission appear to assume that the judgment of the primary elector will have regard on provincial issues to the particular policies of candidates and on central issues only to their general suitability as electors for the central legislature. We doubt whether electoral campaigns would in practice observe these limits, and we should expect that the simultaneous reference of central and provincial issues to the electorate will have a disturbing effect. There is reason to fear that developments on these lines would introduce divergent issues into provincial politics, and invest them with an element of confusion and unreality. We regard this as a real danger in the plan of indirect election by provincial councils.

132. **Dissolution.**—There is another undesirable feature of indirect election as a means of constituting the Assembly which seems to us to be of importance in regard to the position of the executive. The Commission describe* the inconveniences which may arise when a general election becomes necessary on the expiry of the life-time of the Assembly. Means are devised by which in such circumstances the minimum of disturbance of provincial legislatures may be caused. It is, we presume, on similar grounds that the Commission have proposed that the Assembly should have a fixed life, and in fact there would be difficulties in combining a liability in the Assembly to dissolution with a similar liability in the provincial legislatures. We agree with the Commission that on the one hand general elections in provinces cannot be entirely dependent on the necessity to reconstitute the Assembly; and, on the other, that the choice of members of the Assembly cannot be left to provincial legislators, who have not been in comparatively recent touch with the electors. The proposals of the Commission give this degree of security to provincial legislatures that at the worst there is a guarantee of two years life, and the date of compulsory dissolution is known. If, however, the Assembly itself were liable to dissolution, the tenure of all provincial legislatures, which had still more than three years life before them, would be insecure. It appears therefore that on practical grounds an indirectly elected Assembly must be incapable of occasional dissolution, and we consider that this must definitely be regarded as an objection in the scheme. It may be argued that the weapon of occasional dissolution could probably not be effectively used in any circumstances which could be expected to prevail during the next few years but we should

*Volume II, para. 135.

be unwilling to deprive the Governor General of this power. With an Assembly constituted for a fixed period and not liable to earlier dissolution, one of the normal means of removing deadlocks would be sacrificed, while the legislature would be guaranteed for a known period against the effective interference of the electorate. We greatly doubt whether this could be regarded as a satisfactory arrangement.

133. **Review of indirect election.**—We have endeavoured in the preceding paragraphs to run rapidly over some of the salient points, arising out of the Commission's recommendation to substitute indirect election by the provincial councils for the present system of direct election by territorial constituencies. The subject is very complicated, and some of its aspects are highly technical. Theoretical and practical considerations are difficult to disentangle, and in estimates of the manner in which any particular electoral system may be expected to work, there is necessarily a large element of speculation.

It has not been our object to indulge in merely destructive criticism. In no country has an electoral system yet been evolved, which is not open to objection. The choice is not between a perfect and an imperfect system, but rather depends upon the balancing of advantages on either side. We readily admit that indirect election possesses advantages from the point of view of the federal principle which direct election cannot give. As a general proposition and on the considerations arising out of Sir Walter Layton's proposals for finance, we are disposed to welcome a closer connection between the central and the provincial legislatures. The chance offered of getting rid of specific communal representation at the centre is not lightly to be discarded. It is only when we set ourselves to examine the actual working of the indirect system, its probable effect on the constitutional machine at the centre, and its possible consequences in the provinces, that doubts arise. Some of these we have already expressed. The confusion of electoral issues between the centre and the provinces, the dangers of excessive provincialization in the central legislature, and the election of the latter for a fixed term, all seem to us to contain the seeds of future complications. We are also impressed by the objections to an allocation of seats in the Assembly on a purely population basis. The alternative is an unequal allocation somewhat on existing lines, which proceeds from an artificial weightage of provinces. But any attempt to combine such a weightage with a natural representation of communities throughout India by an automatic method is likely to encounter great difficulties.

Again, there are troublesome and perplexing details arising out of the use of proportional representation.

Since eight legislatures will be empowered to create a single legislature, somewhat larger than any one of them, and containing under the Commission's scheme approximately 250 members, we would anticipate two results. We would expect that the members of provincial legislatures, as electors, would be called upon to express a number of preferences, which must normally exceed thirty and may run to considerably larger figures. We have been unable to discover any sufficiently analogous precedent from which to judge how the system of proportional representation, when applied on this scale, may be expected to function. The second result of the system is that the number of votes which would suffice to secure a candidate's election by a provincial legislature would be on an average from province to province as small as eight. The use of restricted quotas for a system of election, which must be secret, causes us considerable anxiety, for we cannot but attach importance to fears already expressed that a wide door is thereby opened to the employment of improper methods. Moreover, as we have already said, there is reason to doubt whether quotas so small will in fact induce any real sense of responsibility in the successful candidate.

On the sum of these considerations we would ourselves incline to the conclusion that a method whereby the Assembly would be wholly or mainly constituted by indirect election would not be suitable. The certain objections seem to us to outweigh the possible advantages.

134. **A mixed system.**—On the other hand, in view of the real advantages offered by the indirect method, we think that it deserves consideration whether these advantages could not by some means be attained without involving the objections to which we have drawn attention.

An Assembly comprising elements drawn from both direct and indirect election, securing on the one hand "territorial" representation through indirect election by provincial councils, and, on the other, the representation of the "all-India" point of view and of special interests partly by direct election and partly by nomination, might secure advantages and eliminate disadvantages on both sides. Such a method of constituting the Assembly would admittedly still be open to the disadvantage that it would remove the possibility of making an effective appeal to the country in the event of disagreement between the executive and the legislature; and for this reason we are doubtful whether such a plan would be permanently suitable in the later stages of the development of the constitution. But it is arguable that this objection need not be conclusive before complete responsible government at the centre is introduced. As a transitional arrangement during the period, when the relations between the centre and

the provinces have to be adjusted and the stresses and strains created by these relations taken up, there would be much to be said for having a central Assembly in which "all-India" views and "provincial" views could each be stated by their own respective representatives in debate. We think that a scheme of this nature might usefully be examined. We foresee difficulties, particularly in the matter of securing proper communal representation, but it is possible that these might be corrected by providing special communal constituencies among the quota reserved for direct election, this method perhaps being further reinforced by nomination in certain cases. We have not been able to work out in detail an electoral project on these lines, but we hope that the practicability of such a scheme might be considered along with other alternatives at the Round Table Conference.

135. **Direct election.**—We now turn to a brief consideration of the system of direct election. The most obvious and perhaps the most grave defect of direct representation is, as the Commission have observed,* "the unwieldy and indeed extraordinary size of many of the existing constituencies", rendering in their view reality of representation impossible. The difficulties of polling even a limited electorate over an area so vast and of such varied physical characteristics are evident. In the past direct election has certainly not secured that intimacy between voter and candidate which it attains in small compact countries, and we may expect personal contact to become more difficult when the franchise is extended. Nevertheless there are other considerations, of which we consider that account should be taken before a definite break with direct territorial representation is made. The real point at issue is whether the physical conditions of India in fact make direct election ineffectual.

We believe the facts to be somewhat as follows. First, the central elector has exercised the franchise with increasing readiness and at least as freely as the elector to provincial councils. A great deal of the business of the central legislature is as intimate to the elector, and is as fully within the scope of his understanding, as the business of the provincial councils. We need cite only such matters as the Sarda Act, the income-tax, the salt tax, the railway administration, and postal rates. Even more abstruse matters, such as the exchange ratio and tariffs, interest large sections of the electorate. Second, the electoral methods natural to the social structure of India may be held to some extent to replace personal contact between candidate and voter, a contact which adult suffrage and party organizations make increasingly difficult in western countries. The Indian elec-

*Volume II, para. 137.

torate is held together by agrarian, commercial, professional and caste relations. It is through these relations that a candidate approaches the elector, and in this way political opinion is the result partly of individual judgment, but to a greater extent than elsewhere of group movements. These relations and groups provide in India a means of indirect contact between voter and member, reducing the obstacles which physical conditions entail. Moreover, we are impressed by the further consideration that ten years ago Parliament of its own motion set up for the first time a directly elected Assembly, representative of the whole of India. That Assembly, in part perhaps because it is directly elected, has appealed to the sentiment of India, and sown the seeds, as yet only quickening, of real representation. Accordingly, unless new considerations of greater importance have to be taken into account, we feel reluctant as yet to condemn an experiment undertaken so recently in a country awakening to political consciousness.

136. **Advantages and disadvantages.**—On these general grounds we would hesitate to hold that the orthodox method of representation by direct election is unsuited to the conditions of India. It may be admitted that during these ten years direct election has not achieved all the results which Parliament perhaps hoped, nor has it overcome all the obstacles which the vast size of the country and the complication of separate electorates impose. But in many ways its success has been growing, and it has contributed to the strength of the Assembly as a focus of national allegiance. On the other hand it would not provide that expression of provincial views as such which may be judged desirable in the new conditions contemplated by the Commission. In financial matters, in particular, this defect may be serious. But, as against a plain alternative of indirect election, we believe that the balance of the argument is in favour of the maintenance of direct election.

137. **Summary.**—We have now examined briefly the methods of direct and indirect election. For the circumstances which exist to-day in India there is no parallel in constitutional history, and the question is admittedly very open. The opinion of provincial Governments is divided in regard to it. Without forming any final conclusion, we have expressed a preference for direct election, but have suggested that it may be found possible to devise a combination of the direct and indirect methods, which might go far to reconcile the different considerations which have force on either side. One of the two preliminary points which we took, when approaching this question of the composition of the Indian legislature, was to disclaim any intention of suggesting its

ultimate form. Those who support the Commission's scheme can similarly maintain that its adoption to meet present conditions should not be taken as committing the country for all time to the indirect method of election. It is not impossible that, viewed in the light of practical expediency, the Commission's proposals may attract considerable support. But, in any case, we feel that the method of election is essentially a matter, on which the considered judgment of Indian opinion should have great weight. We would ourselves be much influenced by the trend of discussions at the Round Table Conference upon it.

138. **Nomination.**—We turn now to the broad questions of the composition and size of the Assembly. The first point for consideration is the extent to which a nominated element should be retained. We have already expressed the view that the difficulties inherent in the problem at the centre would be greatly enhanced by constituting the executive and the legislature on principles which would widen the gap between them. If the proposals we make for a partnership between Britain and India, in the government of India, are accepted, it would seem to follow that there should be partnership in the legislature as well as in the executive. A wholly responsible executive would naturally obtain support in a wholly popular Assembly. But if at present the executive must be, either by specific provision or by convention, of the composite character we have envisaged elsewhere, it can hardly count on obtaining adequate support for its administration as a whole, merely through the connections of its political members with the legislature. Accordingly, we do not think that the time has yet come for the abolition of the nominated portion of the Assembly. We would retain nomination for the two purposes of curing inequalities or defects in representation by election, and of obtaining some additional support in the Assembly for an executive of the form which we contemplate. We would in this way secure an element to represent the unenfranchised and inarticulate, as well as spokesmen who would explain and defend the purposes for which Parliament must retain interest in the administration of India. We would not increase the present number of members entering by the door of nomination, and we would allow the proposals, which we proceed to make for the enlargement of the Assembly, to have effect in reducing the weight which the nominated element will in future have in debate and division. The proportion in which nominations might be divided by the Governor General between officials and non-officials should we think be elastic. As harmony between the new executive and the Assembly grows, as we hope it will, it should be possible

to make a diminishing use of nomination for the inclusion of officials. But the necessity for maintaining strength in the central Government forbids too drastic a limitation of the Governor General's power to secure some measure of assured parliamentary support. We hope that the necessity for the use of that power will finally disappear, but in present conditions we consider its retention a wise precaution. We would therefore impose the present maximum on the nomination of officials, but otherwise leave the discretion of the Governor General in his choice of official or non-official nominees unrestricted.

139. **The size of the Assembly and its life-time.**—The total number of the members of the present Assembly is 145. We consider reasonable the general desire for some enlargement, but practical considerations must, we think, control the increase in membership. There are limits to the number of officials who can sit in the Assembly, and limits also to the extent to which nomination can be used without embarrassing results. While we agree to some reduction in the existing proportion of nominated to elected members, it is essential that the relative strength of the former should be sufficient to enable them to discharge the functions which we have described in the preceding paragraph. Our general aim therefore would be a house somewhat larger than at present, and we should contemplate a maximum strength of 200 members. We should expect detailed and local examination to show that constituencies, which arrange the present electorate in suitable groups, and maintain the existing provincial proportions, need not number more than about 150, and that a maximum strength of 200 members would be appropriate for a house including also representatives of special interests, and a nominated element.

We accept the proposal of the Commission and of the Indian Central Committee that the life of the Assembly should be five years.

140. **The franchise.**—The problem of the franchise for a directly elected Assembly has naturally not presented itself to the Commission, and in consequence has not elicited any expressions of opinion from the provincial Governments. It was not mentioned by the Indian Central Committee. If direct election is retained, we would be disposed to favour some extension of the franchise, in view of the smallness of the present electorate and its general character. Any reduction in the proportion of the nominated element in the Assembly, official and non-official, which at present alone represents the unenfranchised and inarticulate, makes an extension of the franchise more desirable, and we think that the

franchise qualification should be investigated by the Franchise Committee, with instructions to make suggestions for a reasonable extension.

141. **Constituencies.**—We do not desire to cover again the ground of communal representation and the forms which it might take, so fully explored by the Commission.* We are in accord with their general conclusions and, in the absence of agreement at the centre, would feel bound, in a directly elected Assembly, to retain communal representation, derived from separate electorates, approximately in its present proportions. The territorial constituencies would then be differentiated as non-Muslim, Muslim, Sikh and European. We would keep the existing distribution by provinces, unless on further examination some modification seemed necessary and feasible, but we would aim at carrying into effect the proposals of the Commission for the elected representation in the Assembly of the centrally administered areas. The special interests to be represented by election might continue to be those of landholders and Indian commerce. We think it important that European commerce should be directly represented in the Assembly.

142. **Illustrative statement.**—While we have left open the question whether the Assembly should be constituted by direct or indirect election, we think it may be an advantage if we show in detail the composition we would suggest for a directly elected Assembly. The Assembly would have a total maximum strength of 200 members, including 150 members returned by territorial constituencies. The 50 remaining seats would be filled by the return of 12 members by direct election to represent the interests of landholders and Indian commerce, and by the nomination of 38 members. The former category would include, as at present, 7 representatives of landholders and 5 representatives of Indian commerce. The nominated category would contain a limited number of officials within a maximum of the present figure of 26, and would provide for the representation *inter alios* of the depressed classes and labour, until conditions permit the use of direct election by these interests.

The statement which we append does not comprise all the 200 seats. It has been prepared in illustration of a possible distribution by provinces and communities of the 150 seats, which would be filled by election from the general territorial constituencies, and to show a comparison with the existing arrangement.

---

* Volume II, para. 70 *et seq.*

Province.	Existing distribution of general seats.	Revised distribution of general seats on the basis of existing proportions.	Existing and revised distribution of seats among territorial constituencies.								Remarks.
			Non-Muhammadan.		Muhammadan.		Sikh.		European.		
			Existing.	Revised.	Existing.	Revised.	Existing.	Revised.	Existing.	Revised.	
Madras	14	23	10	16	3	5	..	..	1	2	
Bombay	13	21	7	11	4	7	..	..	2	3	
Bengal	15	24	6	10	6	9	..	..	3	5	
United Provinces ..	15	24	8	13	6	9	..	..	1	2	
Punjab	11	18	3	5	6	10	2	3	..	..	
Bihar and Orissa ..	11	18	8	13	3	5	..	..	..	..	
Central Provinces (including Berar).	5*	8	4	6	1	2	..	..	..	..	*Includes one technically nominated seat filled as the result of an election in Berar.
Assam	4	6	2	3	1	2	..	..	1	1	
Delhi	1	2	1 (General)	1	..	1	..	..	..	..	
Ajmer-Merwara ..	1	1	1 (General)	1 (General)	..	..	..	..	..	..	
Total ..	90	145	50	79	30	50	2	3	8	13	
North-West Frontier Province.	1 * (nominated).	3	..	1	1	2	..	..	..	..	
Coorg	..	1	..	..	..	..	..	..	..	..	
Baluchistan ..	..	1	..	..	..	..	..	..	..	..	
Total ..	91	150	..	..	..	..	..	..	..	..	

The Upper House.

143. **The need for a strong second chamber.**—"The Council of State", the Commission remark,* "represents the more conservative elements in the country and, in particular, sections of society which have most to lose by hasty and ill-considered legislation". We believe that danger of such legislation will long continue and that a second chamber will always be required as an element in the Indian legislature. There are, however, reasons why at the present stage the Council of State should be composed with particular care. It is not proposed to have a form of purely popular government at the centre, and a unitary executive, however amenable to the influence of the Assembly, cannot be directly responsible to it. In these circumstances, we cannot expect that harmony between the executive and the lower house will always prevail, and the merits of administrative policy may not invariably receive that consideration which the executive would desire. It is of importance, therefore, that there should be a second chamber, so constituted as to be able to give to the executive reasonable and discriminating support. Again, the Governor General will continue to be charged with the duty of securing those purposes which will be the concern of Parliament, and it is desirable that, as far as possible, these powers should not be brought into play in opposition to the wishes of the Assembly, until the decisions of that body have been reviewed by the calmer judgment of the Council of State.

144. **Numbers and qualifications of members.**—The Council of State has in the past exercised to the great benefit of the country the functions which we have just described, and we think that it should remain much as it is at present. We concur in the conclusions of the Commission that the numbers and the proportion between elected and non-elected should be left unchanged, and that the qualifications for membership of the upper house should continue to be high. The present qualifications for membership are the same as for the franchise, and we agree with the Commission that they might in future be perhaps less wide than at present. An enquiry into suitable qualifications might well be undertaken on the lines suggested by the Commission.

145. **The electoral method.**—The present method of returning members of the Council of State by direct election has been successful in composing the upper house on suitable lines. Our own preference would be for maintaining the pre-

*Volume I, para. 247.

sent system, but we recognize that, if the Assembly were to continue to be constituted on the basis of direct election, there might be some advantage in taking occasion through the Council of State of familiarizing men's minds with the federal idea and the system of indirect election proposed by the Commission. We would, however, make our acceptance of change in the existing method of election conditional upon two objects being attained. We should wish to be satisfied that the change involved no prejudice to the rights of minorities. Our second proviso would be that the change commended itself to public opinion. Subject to these two considerations, we should be prepared to accept the proposals of the Statutory Commission.

146. **Nomination.**—There are two arguments, which weigh with us in retaining the existing proportions of elected and nominated members. First, we hesitate to rely altogether on the qualifications, which will be prescribed for candidates, to secure an element which has proved valuable in the past and is indispensable in a senatorial body. In paragraph 8 of our Reforms Office despatch No. 3, dated the 6th May 1920, Lord Chelmsford's Government made the following observation : " The functions of such a chamber, as we conceive them, are those of a revising body, capable of exercising in relation to the popular chamber a restraining though not an overriding influence, and its composition is a corollary of its functions. The members of such a body must be persons possessing what has been called the senatorial character ; they must, that is to say, be men who will bring to bear, on problems of State, the qualities of knowledge, experience of the world, and the sobriety of judgment which comes thereby. No form of indirect election could satisfy these requirements. At its best, this method would produce a body which merely reflected the views of popular electorates ; at its worst, one which consisted of the delegates of small electoral cliques ; but in no circumstances could it yield a true senate." We do not now press these views so far as to reject indirect election altogether. They are however still a justification for retaining adequate scope to maintain by nomination the senatorial character of the chamber. Second, we consider it desirable that for some time longer the central Government should be able to count on support from the upper chamber. For that reason it is essential that the Council of State should remain a body of conservative disposition. We would, therefore, retain the power possessed by the Governor General to make nominations both of officials and of non-officials, observing that the Governor General is at present under no obligation to nominate the maximum number of officials and indeed in

practice nominates a smaller number. We would hope that this discretion to reduce the nominations of officials might, in the future, be more freely exercised than at present and it might well be that if the method of indirect election were adopted, more frequent resort to nomination of non-officials might be necessary, in order to represent interests or communities which fail to secure representation through provincial legislatures.

147. **Life-time.**—Whether the Council of State is elected directly or indirectly we agree with the view of the Statutory Commission that its life should be seven years.

DEFENCE.

Administrative problems.

148. **Connection of civil departments with the administration of defence.**—Having described the general administrative and legislative dispositions at the centre, which appear to us to accord best with present conditions, we desire to consider in greater detail how these dispositions will affect some of the more important of the departments of Government. The Commission have fully recognized the importance of the subject of defence, which indeed constitutes one of the most difficult of all the problems at the centre. In putting forward their scheme, they have been largely actuated, as they point out, by the desire to remove what might otherwise form a continuing barrier to constitutional progress. Any proposals designed to produce this result merit the most careful and sympathetic consideration. We have already discussed the proposals for the exclusion of defence in so far as they affect the structure of the central executive; and we have examined in that connection the suggestion that the removal of the control of the army from the Government of India would clear the way for constitutional advance. We will now endeavour to consider how the proposal would affect the army administration itself. We have been impressed by the accuracy and insight with which the Commission have analysed the problem, and by the ingenuity of the solution which they propound. The essence of their proposal, as we understand it, is a mutual agreement between Great Britain and India that for the time being the defence of India should be regarded as an Imperial concern carried on in co-operation with, but outside, the civil administration of the country. By a similar agreement, a fixed total sum would be made available from Indian revenues for defence expenditure, subject to revision at suitable intervals. The idea has undoubtedly many attractive features. We have however, to ask ourselves two questions, first, whether, in the endeavour to avoid a constitutional difficulty

of a special character, India may not fall into a greater danger by attempting to detach an important function of Government from its true place in the organic whole : and, second whether the control of defence can as a matter of fact be isolated in the manner proposed. It has to be remembered (and experience in all countries during the Great War has brought home this lesson very forcibly) that the administration of defence cannot be made the business of one department of Government alone. The successful conduct of war does not depend solely on the strength of the armed forces available, the manner in which they are raised and controlled, and their general state of preparedness, but upon the combined efforts of the Government and the country as a whole. A modern war may, and generally does, involve all the resources of the nation. In considering the wider aspects of the defence problem, the defence administration of the State cannot be dissociated from other branches of the administration, such as finance, maintenance of order and the quelling of civil disturbances, posts and telegraphs, railways, trade, shipping and transport, labour, health, and even education. The efficiency of the fighting services depends to a large extent on the general efficiency of the nation in these departments, and on the degree to which the national resources have been co-ordinated in peace, and can be harnessed in war. The responsibility of Government for defence is thus a joint responsibility. The Commission evidently had these facts in mind, for they have laid special emphasis on the necessity for continuing unimpaired the help and assistance which the army at present looks for and obtains from the civil administration. If we have correctly followed their line of thought, they believe that the co-operation of the civil departments in the day to day administration of defence can be secured on the same basis of mutual agreement as is necessary to the introduction of their scheme as a whole, though the means for ensuring such co-operation must in the final resort rest in the hands of the Governor General. We have to examine this assumption from the practical point of view.

149. **Position of the Army Department under the existing system.**—In the central Government as at present constituted, there is no fundamental difficulty in correlating the activities, and defining the responsibilities, of the various civil departments in regard to defence. Questions, which are the joint concern of the army and one or more civil departments, are dealt with under the ordinary inter-departmental routine of the Government of India, and decided ultimately, in the event of disagreement, by a reference to Council. It is true that the procedure is sometimes found to be cumbrous, and that the need for a co-ordinating institution, analogous to the

Committee of Imperial defence, is not infrequently felt. This is at the most, however, a remediable defect in the administrative machinery. The Government, in its present unitary form, does provide the means of solving departmental differences, and precludes the possibility of deadlock.

150. **Our apprehensions regarding the position of the Army Department under the Commission's proposals.**—We do not feel sure that this would still be the case under the arrangements proposed by the Statutory Commission. The Army Department would cease to be a constituent unit of the central Government. It could no longer rely on its position as a department of the Government of India for support when claiming the co-operation of other departments, or endeavouring to impress upon them its peculiar requirements or points of view. The burden of persuading a civil department in the last resort to take or withdraw any action in the interests of the army would rest upon the shoulders of the Governor General, whose task would be made no easier by the fact that the central Government had been deprived of its direct share of responsibility for defence. It is not, in our opinion, merely a question of the provision of facilities in regard to recruitment, transport, and other matters. The Army Department is in contact with civil departments from day to day. At present it deals with them on an equal footing: but if it became an authority separate from the central Government, some friction would almost certainly ensue. The position of an excluded Army Department would, we think, be difficult enough even if the central executive were constituted, as the Commission propose, with an official element, and were not responsible to the legislature. But if the exclusion of defence fulfilled its avowed object of removing the constitutional barrier to complete self-government and the Army Department, administered by an Imperial agency, found itself in daily contact with a central Government responsible to the legislature in all respects, we apprehend that the possibilities of friction would be greatly increased.

151. **Arguments on the other side.**—It is, of course, possible that we have over-estimated these disadvantages. It may be contended that so far as the provinces are concerned, should effect be given to the constitutional proposals of the Commission, the co-operation which is needed for the successful administration of defence must depend in the first instance on goodwill and mutual understanding (the ultimate power resting in the hands of the Governor General), whether the army remains an integral part of the Government of India or not. In regard to the centre, it might further be argued that as a matter of fact conflicts between the army and the civil departments are not frequent, and that it

is hardly reasonable to assume that antagonism and opposition will become the rule, and co-operation the exception, merely because the army has been placed, for administrative purposes, under the Governor General. Though under the Commission's proposals the army administration would be outside the Government of India, the responsibility of the latter to co-operate in the defence of the country would remain unimpaired, and the powers of the Governor General would be in reserve to enforce that responsibility. It might also be questioned whether an army administration, excluded by mutual agreement from the Government of India, would be faced with any greater difficulties in securing co-operation and co-ordination of effort than an army administration forming part of a Government of India, which was in other matters responsive to the legislature. We do not ourselves hold these views, but we think it desirable, in connection with so important a proposal, to state the arguments on either side.

152. **In the legislature.**—The removal of the Commander-in-Chief and the Army Department from the Government of India might lead to complications in the legislature. The Commission observe that the Army Secretary would be available in the Legislative Assembly. He would however cease to be an official of the central Government, and, as that Government would be divested of its share in the responsibility for defence, he would act, not as its spokesman, but as the mouthpiece of an Imperial agency. His position in the Assembly as the official exponent of policies for which the Government of India were not responsible, would be in our view anomalous and embarrassing. There is already a tendency to criticize the existing arrangement under which the Army Department is represented in the Assembly by a Secretary, and not by a member of the Government. We think that there might be greater cause for dissatisfaction if the spokesman on military matters were not even an official of the Government of India. The Commission indeed propose* that the Leader of the Federal Assembly should take charge of important debates on military subjects : but although the Leader of the Federal Assembly might personally carry great weight, his rôle, in army debates, would be merely that of an advocate briefed for the occasion.

Here again we do not overlook the arguments on the other side. If defence were excluded from the Government of India by general agreement, the Assembly might tend to concern itself less with the details of army administration, especially if it were represented in a standing defence com-

*Volume II, para. 170.

mittee, and had opportunities for the discussion of army policy, as the Commission suggest.

153. **Effect upon the Indian soldier.**—Our arguments so far have dealt with the administrative objections that might be urged against the Commission's proposals. There is another important aspect of the matter. The Commission have stated* in their report the main argument on which their proposal is based. It is the principle that the protection of the frontiers of India, at any rate for a long time to come, should not be regarded as a function of an Indian government in relation with an Indian legislature, but as a matter of supreme concern to the whole Empire, which can only be effectively organized and controlled by an Imperial agency. We do not here wish to enter into the question of the degree to which the defence of India may be regarded as an Imperial rather than a purely Indian concern. We do consider it relevant, however, to note that the greater part of the rank and file of the army in this country consists of British Indian subjects. The Commission's proposals might be thought to have the effect of removing Indian officers and men from the service of the Government of India, and of turning them into employees of an Imperial agency, whose policy might be dictated to a large extent by the War Office. It is possible that the effect of this change in the status of the Indian soldier would not immediately be felt. Under the Commission's proposals, the army would still be directly subordinate to the Commander-in-Chief, and would still be under the supervision of the Governor General. The dissociation of the army from the Government as a whole might, however, in time produce reactions unfavourable to the Indian soldier during his army career, and might also tend to deprive him of the protection and sympathy of the civil administration in his retirement.

The advocates of exclusion may reply that here also the goodwill and co-operation of the provincial Governments must be assumed, and that, if these are not readily forthcoming, the Government of India would at any rate be in no better a position than a separate Army Department to secure the interests of individual soldiers and pensioners. We do not ourselves hold this view. We believe that, in this as in other matters, the representations of the Government of India are likely to carry more weight with local Governments, no matter how autonomous, than those of a detached authority.

154. **Conclusion : the army should preferably remain under the Government of India.**—Our conclusion, after weighing the arguments on both sides, is that it would be

*Volume II, para. 208.

preferable that the Government of India should retain its control of the administration of defence. The Commission themselves, however, recommend the adoption of their scheme only on the understanding that it meets with acceptance. If Indian opinion were decidedly in its favour, we should be prepared to reconsider our views. The proposal hitherto does not appear to have enlisted any public support.

155. **The portfolio of defence.**—If this view is accepted, the portfolio of defence would continue to be held by a member of the central Government. This brings us to the question of the position of the Commander-in-Chief. We consider that there is great force in the Commission's recommendation that the Commander-in-Chief should cease to be a member of the central Government, occupying a seat in the Indian legislature. The present official position of the Commander-in-Chief, combining as it does the function of the supreme Commander of the forces in India with that of permanent Army Member and Government spokesman on army affairs, is becoming increasingly difficult and embarrassing. The problem had arisen before the appointment of the Statutory Commission, and we had already for some time been considering the possibility of some such solution as the Commission propose. We agree that the Commander-in-Chief should cease to be a member of the Indian legislature : and we recommend that his place in that respect should be taken by a civilian member for defence, who would become the responsible member of Government and Government spokesman in the legislature in all matters of defence policy. This, in our opinion, would constitute the simplest method of relieving the Commander-in-Chief of duties which are extraneous to the nature of his profession and appointment. The change would involve no dislocation of the existing machinery and the actual conduct of business between the Army Department and Army Headquarters would proceed on the existing lines. The Commander-in-Chief should, however, retain the right of direct access to the Governor General, and should, as a matter of rule, be present in Council when military affairs are discussed. The mutual relations of the Commander-in-Chief and a civilian defence member would not present the difficulties that were found to arise when the Commander-in-Chief and the military member, both high military officers, were both also permanent members of the Executive Council.

156. **The army estimates.**—We find ourselves in agreement with many of the Commission's observations on the subject of military expenditure. It will be for His Majesty's Government to consider whether the Commission's argu-

ments in favour of a subsidy from Imperial revenues should be accepted, and whether the Government of India can establish a claim to a fixed contribution determined by the factors to which the Commission have referred. We are in favour of the proposal for the constitution of a committee on army affairs, including members of the central legislature, for the purpose of discussing and keeping in touch with military questions, as recommended* by the Commission. We are also in favour of the Commission's suggestion that military expenditure from Indian revenues should henceforward take the form of an annual total sum fixed for a period of years, and revised at intervals. The general position of the legislature in regard to defence matters should, however, remain unchanged : in particular, the existing facilities for the annual discussion of military policy and expenditure, in the course of the budget debates in the Assembly, should continue.

Indianization.

157. **The Commission's survey of the problem.**—In chapter 10 of the first volume of the report, the Commission have presented a comprehensive picture of the military problem, notable for its impartial, yet sympathetic, treatment of a most difficult subject. That the Commission recognize the supreme importance of this question is made clear in the first sentence of the chapter, where they observe that in considering the implications of the policy, to the pursuit of which the British Parliament is solemnly pledged, for the increasing association of Indians in every branch of Indian administration, and for the development of responsible government in British India, no question is at once more difficult and more crucial than the future organization, recruitment, and control of the army in India.† We think it worth while to quote in full one passage ;‡

> " For the purposes of the constitutional inquiry upon which we are engaged, the method by which Indianization might proceed is not so immediately important as the fact that it has at length begun, and that it is recognized that the pace at which it proceeds is conditioned by the efficiency of the results obtained. A completely self-governing India must be in a position to provide itself with armed forces, fit to undertake the tasks which armed forces in India have to discharge, so far as those tasks

*Volume II, para. 210.

†Volume I, para. 111.

‡Volume I, para. 125.

> are the special concern of India itself. It is not to be supposed that units recruited in Britain and officered by British officers are going to be mercenaries in some future India where the ultimate military authority rests with an Indian Minister for War or with an Indian Cabinet, responsible to an Indian elected Assembly. Indian nationalists are, therefore, perfectly right in attaching great importance to army questions in India in relation to India's constitutional development. It is essential to the honour of Britain, in relation to the assurances which have been given that we are sincerely aiming at the attainment of self-government in India, that the transformation should be given every fair chance. The change is bound to be slow, and it is much more likely to come about smoothly and successfully, if the difficulties are honestly faced on both sides in a spirit of complete goodwill."

These words sum up clearly and succinctly the whole problem of Indianization. It is of paramount importance that we should satisfy Indian public opinion that we are in earnest in our policy, and that our measures of Indianization are directed towards a definite goal. It is equally important that our critics, on the other hand, should recognize that the maintenance of efficiency is an indispensable condition of progress, and that this plea is not raised for the purpose of obstructing legitimate demands.

158. **The Commission's recommendations.**—The Commission have put forward a tentative proposal* for the development of a separate army of a dominion pattern, recruited for purposes of internal order, but sharing with Imperial troops the burden of external defence. This army, if and when created, would be under the control of an Indian minister. The suggestion is repeated in paragraph 211 of the second volume, where it is further made clear that the dominion army would be independently paid for and controlled, and contain no British element. The Commission recognize, however, that the suggestion raises many difficulties, technical and financial, and that the time for so considerable a departure from the established organization has not yet come. We shall return to this subject later. For the present the Commission urge that we should go forward steadily, as we are pledged to do, with the Indianization of the army, subject only to the overriding requirements

*Volume I, para. 126.

of military efficiency : and they consider that this obligation should continue to be honoured in the letter and the spirit if the army in India were to pass, as they suggest,* out of the control of the Government of India. We need hardly say that we accept this view of our obligations. Our present policy of Indianization is indeed based upon it. We believe that the pursuit of that policy, in the language of the foreword published with your predecessor's approval to the report of the Indian Sandhurst Committeee, " offers the sure stable line of advance towards the creation of a dominion army ". By " the creation of a dominion army " we mean the evolution of a self-contained Indian force, to be commanded and officered eventually by Indians and to be under the control of a self-governing India. We propose to describe briefly the progress that has already been made in Indianization, since the announcement of decisions on the report of the Indian Sandhurst Committee, to state the position now reached, and to indicate what the next steps in advance are likely to be.

159. **Progress of Indianization since 1928.**—In March 1928, we announced that in future the number of vacancies available for Indians at the Royal Military College, Sandhurst, would be increased from ten to twenty a year, and that some vacancies would be thrown open to Indians at the Royal Military Academy at Woolwich, and the Royal Air Force College at Cranwell. The first examination under the new conditions was held in November 1928, but it was not until the November examination of 1929 that, for the first time, the number of Indian candidates qualified for Sandhurst exceeded the number of vacancies offered. At that examination, eighteen candidates passed the examination, against ten vacancies. At the same examination, six Air Force candidates, *i.e.*, the minimum number required to initiate an Indian Flight, succeeded in qualifying for Cranwell, and two Indians also passed into Woolwich. Up to that point, no Indian had passed for either Woolwich or Cranwell. We have recently received final results of the examination held in June 1930. Two candidates succeeded in qualifying for Woolwich, and ten for Sandhurst. The number of those qualified for Sandhurst was therefore, on this occasion, exactly equal to the number of vacancies offered. For future calculations, it may be assumed that the number of candidates qualifying for Sandhurst will not fall below the present number of vacancies, namely twenty a year. To these should be added a number of Viceroy's commissioned officers nominated to Sandhurst as Viceroy's commissioned officer cadets. The prescribed annual maximum for such nominations is five, but for the

*Volume II, para. 211.

present not more than two or three suitable candidates are likely to be forthcoming from this source every year. In addition, we may expect an average of three or four candidates a year qualifying for either Woolwich or Cranwell.

160. **Number of Indianizing units required.**—An annual output of twenty officers with direct commissions from Sandhurst, together with an annual average of two or three Viceroy's commissioned officers granted King's commissions, will, in the course of time, supply an officer establishment sufficient for a complete infantry division of twelve battalions, a pioneer battalion, and a brigade of three regiments of cavalry, together with an adequate margin for ancillary departments, staff and command appointments, and for wastage in premature retirements and transfers to civil departments. The calculation assumes the conversion of the officer establishment of Indian units from the existing pattern, which consists of twelve to fourteen King's commissioned officers and nineteen or twenty Viceroy's commissioned officers, to a homogeneous cadre of twenty-three to twenty-five King's commissioned officers. Our scheme therefore at its present stage, envisages the Indianization in all of sixteen units of cavalry, infantry and pioneers, in addition to such units of artillery, signals and engineers as may hereafter be officered by Indians from Woolwich, and to the air squadron which we hope to raise gradually with Indian officers trained at Cranwell. The eight units hitherto set apart for Indianization are still officered on the pattern mentioned above. But these officer establishments will in the course of time be insufficient to accommodate the increasing number of Indians commissioned through Sandhurst. It will then be necessary either to set apart more units for Indianization or to begin the conversion of the officer establishment to the British pattern, or to introduce a combination of both these measures. We have not yet decided which procedure we shall adopt. An important factor in the decision must naturally be the necessity of securing the rights and prospects of the Viceroy's commissioned officers, and of the sepoys and sowars who enter the army with the ambition of being promoted to Viceroy's commissioned rank.

161. **Question of an Indian military college.**—The increasing numbers of successful Indian candidates at these examinations bring us nearer to the point when the question of the establishment of a military college in India must be decided. The Indian Sandhurst Committee, in paragraph 44 of their report, stated that according to the expert evidence they had received, the desirable number of candidates for the starting of an Indian military college, if it were to have an efficient organization, was 100. They

accepted that as the initial number, and proposed that the college should be inaugurated in 1933, with an intake of 33 cadets in that year. The establishment of 100 was to be reached in 1935, when the first batch of entrants would be commencing the third and last year of their course. The Committee, in their recommendations, followed the models provided by the Dominion military colleges at Kingston and Duntroon, where the normal course of training is three or four years : and we agree that the Indian military college when established should be on the lines of those colleges rather than of Sandhurst, where the course lasts for eighteen months only. We also agree with the Indian Sandhurst Committee that 100 is a desirable number, though not an indispensable minimum, for the foundation of an Indian military college. To absorb an annual output of 33 officers, if that were the figure accepted, it would be necessary in course of time to expand the number of units selected for Indianization from sixteen, the number required for the present output, up to about 25. The rate of progress of Indianization in artillery, engineers, signals, and air units, is at present too uncertain to be included in this estimate.

162. **Arguments that might be urged in favour of Sandhurst from the military point of view.**—The alternative to the creation of an Indian military college would be a further increase in the number of vacancies available for Indian cadets at the Royal Military College, Sandhurst. His Excellency the Commander-in-Chief points out that there is much to be said for the retention of Sandhurst as the training-ground of Indian King's commissioned officers as long as possible, provided that the progress of Indianization is not thereby retarded. The traditions which have been established over long years at Sandhurst, and the fact that the Indian cadets there mix freely in work and games with boys from English public schools, have undoubtedly a beneficial effect. It can be shown that many young Indian cadets, after a Sandhurst education, are holding their own with their British contemporaries : and those who advocate the retention of Sandhurst feel no doubt that the same results would not be obtained from a college established in India, which for many years to come would have no such traditions as Sandhurst and no corresponding *esprit de corps*. While sympathizing with the wide-spread desire among Indian public men to see a military college established in India, those who hold this view are definitely of opinion that the present high standard of education, combined with the surroundings and traditions of Sandhurst, resulting in the formation of character, will not be maintained in an Indian college, and that the quality of young Indian officers entering the army will consequently deteriorate.

163. **Arguments that might be urged in favour of Sandhurst from the political point of view.**—Indian political opinion has hitherto expressed itself clearly in favour of the creation of an Indian military college in accordance with the recommendation of the Indian Sandhurst Committee. The considerations stated in the preceding paragraph might however be acknowledged by some of those who press for an Indian military college, if they could be assured of a guarantee that the retention of Sandhurst would in no way prejudice the rapidity of Indianization. Indian sentiment, both within and outside the army, attaches considerable value to the hall-mark of Sandhurst. One of our Indian colleagues has expressed the view that it would be better that India should continue for some time yet without a military college of her own, than that Indian officers should come to be regarded as possessing qualifications inferior to those of their British contemporaries in the Indian Army. He fears that this argument of inferiority might be used to retard the pace of Indianization in future, and he observes that if it is found necessary for young Indians appointed, for instance, to the Indian Civil Service or the Forest Service, after open competition in India, to be sent to Europe for further training, a period of training in England would seem equally necessary for young Indian officers of the army. It would be possible to point, in illustration of this argument, to the proposal of the Indian Sandhurst Committee that Indian cadets, after completing their course at the Indian military college, should be attached for one year to British battalions stationed in the United Kingdom. To cite another instance, although the teaching in Indian Universities has reached a high standard, there is still in India a great demand for admission to British universities. Even if the Indian military college, therefore, produced from the outset officers as good as those trained at Sandhurst, the fact might not be recognized for some time by the Indian or the British public. He further urges that inasmuch as any expansion of Indianization will involve a decrease in the number of British officers of the Indian Army, there should be less difficulty in accommodating the increasing numbers of Indian cadets at Sandhurst. If therefore His Majesty's Government could arrange to secure the admission of Indian cadets to Sandhurst to the extent which the progress of Indianization required, there would be grounds for postponing the establishment of an Indian military college for a considerable time to come. An Indian military college is moreover bound to be expensive, both in its capital cost and in its recurring charges, if it is to be founded and maintained on lines comparable to Sandhurst. He anticipates that, from the political and financial, as well as the military, points of view, the alternative of retaining Sandhurst may find some support.

164. **Arguments for an Indian military college.**—On the other hand it may be argued that a course of three, or possibly four, years in an Indian military college, beginning in the seventeenth or eighteenth year of age, when boys are still comparatively impressionable, could be made at least as effective as the training imparted during eighteen months at Sandhurst to Indian cadets, who rarely go there, under the present system, until after they are nineteen. The advantages resulting from association with British contemporaries might perhaps be secured, when the time comes, in another way, namely, by extending, for Indian officers, the period of attachment to a British unit, before they are posted to the Indian army, from one year, as at present, to, say, two years. Further, it may be thought that the qualities of initiative and comradeship, the combination of which is essential to the making of a good officer, are acquired rather during the time spent at an institution such as Dehra Dun, or at an English public school, than during the later, and shorter, stage of a course at Sandhurst. By taking its cadets at a more formative age, and by training them longer, an Indian military college could supply to some extent the advantages of a public school education for those who had not already had it: and there is no reason to suppose that the military authorities in charge of the direction of the college could not, by choice of staff and in other ways, ensure the provision of a first class training. The Indian Sandhurst Committee were obviously guided by considerations such as these in making their recommendation for an Indian military college—a recommendation that has received much support from Indian public opinion. We cannot ignore the strength of the demand for such a college. In spite of the financial assistance granted by Government to Indian cadets, we cannot doubt that the expense, the distance from India, and the unfamiliarity of the surroundings, are factors which deter a number of parents at present from offering their sons for a military career. There is a general impression that in spite of everything that Government can do, the cost of education at Sandhurst remains excessive, and that Indian cadets are handicapped in various other ways. This feeling is but natural. To appreciate its force it is only necessary to imagine what would be the attitude of British parents who desired to send their sons into the army, if there were no military college in Great Britain, and every English cadet had to be trained at an institution in a distant country. It would not be long before public opinion, in such circumstances, demanded the establishment of a military college in England. An Indian military college will in any case become inevitable as soon as Sandhurst can no longer accommodate the increasing numbers of Indian cadets. We do not

know when that point would be reached: it would depend, among other things, upon the attitude adopted towards this question by the Army Council. But, even if the military authorities in England were willing to accept Indian cadets at Sandhurst in sufficient numbers to avoid the immediate necessity of founding an Indian military college, the question would still remain whether it would be better to continue sending Indian cadets to Sandhurst as soon as possible, or to start the Indian college without delay.

Some of our number would prefer, for the reasons given in paragraphs 162 and 163 above, to make every effort for the retention of the advantages of Sandhurst as long as possible, provided that the military authorities in England were prepared to accept Indian cadets in the increasing proportions that the progress of Indianization will require; others of us take the view that the establishment of an Indian military college should be set on foot as soon as practicable. In these circumstances we have stated to the best of our ability the arguments in favour of either course, and His Majesty's Government will have the opportunity at the Conference to ascertain Indian feeling on the matter.

165. **The Commission's scheme for a separate "dominion" army.**—If the number of King's commissions offered annually to Indians is increased in the near future, it will be necessary to decide in what way the additional officers should be employed. We have considered very carefully the proposal made by the Indian Statutory Commission in paragraph 211 of the second volume of their report. Reading that paragraph with paragraph 126 of the first volume, we understand the proposal to be that Government, in co-operation with the central legislature, should encourage the recruitment of battalions of a dominion pattern, commanded by officers holding a dominion commission, for purposes of internal security, that these forces should be controlled by an Indian minister of the central Government, and that out of them a dominion army should gradually emerge as a self-contained indigenous force, distinct from the Imperial army, in which latter army, however, the policy of Indianization should also be pursued. The Commission have left us in some doubt as to the functions of this new force, which they contemplate* as being "recruited for purposes of internal order", but also "sharing with Imperial troops the burden of external defence". Nor have they defined the source from which it is to be financed, though recognizing that financial considerations will of necessity impose strict limits on its size.

*Volume I, para. 126.

166 **Tentative character of the scheme.**—This suggestion of the Commission is, however, only tentative. As we have already stated, they do not themselves consider that the time has yet arrived to decide upon it, and whether it should be adopted or not. Its adoption would in any case depend upon a definite pronouncement in its favour by Indian public opinion. We shall proceed to examine it in the paragraphs that follow. At the same time, we wish to make it clear that our views, like those of the Commission, are merely provisional, and that we do not commit ourselves at this stage to a final expression of opinion.

167. **Possible objections to the scheme.**—Whether, as we should prefer, the Government of India continue to control the regular army, or whether the Statutory Commission's recommendation be adopted, and the control of the army be transferred to the Governor General, acting as an agent of the Imperial Government, this further recommendation of the Statutory Commission would involve the existence of two distinct forces side by side, controlled, organized, equipped, financed and employed on different systems, but both of them none the less forming part of the army in India, and containing the germ of the future dominion army. We confess that we do not at present see what justification or incentive could be found for the creation of the proposed new force. Apart from the financial difficulties to which we have alluded in paragraph 165, it is obvious that newly raised troops of this character would not for many years be as efficient as units of the regular army. Indian public opinion, so far as we know, is content that the whole army should remain under the control of the Government of India and the Commander-in-Chief. Its main demands are first, a large reduction in military expenditure, and, second, an increase of Indianization within the existing army. The fact that the Government of India and the Assembly were free to develop an army which might be regarded as of inferior status and of less effective fighting capacity alongside the regular army, with such funds as might be available, would not evoke any degree of popular enthusiasm : nor would it be easy to convince any one that this measure constituted an advance towards the formation of a dominion army. It must further be remembered that, in time of peace, internal security troops, as such, do not exist. All units of the army are recruited, trained, and equipped up to the full standard of efficiency required for service in the field. On the outbreak of war, units which are at the moment stationed in certain places become, on mobilization, part of the field army, and proceed to the front. Those in certain other stations are detailed

for internal security purposes ; but, being fully trained, also form a valuable reserve to the troops in the field. In ordinary times however every unit is fully trained for war, and is also available for duty in aid of the civil power on the outbreak of local disorders, whatever its duties may be in the event of mobilization. Battalions trained for internal security purposes alone would not have sufficient occupation to justify their maintenance as regular forces.

168. **Another suggestion—Provincial battalions.**—We have considered also an alternative suggestion that a certain number of units, over and above those set apart under the existing scheme for Indianization within the army, should be handed over to provincial Governments to be maintained by them as provincial battalions. These battalions would normally be employed by the provincial Governments on duties connected with law and order, for the preservation of which they are, under the Commission's proposals, to become primarily responsible. They might also develop, in the course of time, into units capable of taking their place in the field army. They would in fact be raised and maintained by provincial Governments in precisely the same way as Imperial State forces are raised and maintained by the rulers of the larger Indian States. They would be inspected and supervised by a central agency similar to, and possibly amalgamated with, the Military Adviser-in-Chief and his assistants. For every provincial battalion so constituted, a corresponding unit of the regular army would be brought under reduction : and the provincial Government would receive, out of the resultant saving to army estimates, such financial contribution as was required to maintain the new unit on an adequate footing. Provincial battalions, like the Indianizing units in the regular army, would be officered by Indians commissioned through an Indian military college. It is claimed for the scheme that, by encouraging the development of localized forces, it would help to broaden the basis of recruitment, and perhaps foster willingness to undertake military service among communities who show no enthusiasm for it at present. Meanwhile, the Imperial army would not run the risk of including more experimental, and to that extent, ineffective units than it could carry. At the same time, there would be no restriction of the field of employment for young Indian commissioned officers, many of whom might prefer service in provincial units of this character to service in the Imperial army. The suggestion, therefore, has something in its favour from the purely military point of view. It is, however, open to some of the same objections as the proposal of the Indian Statutory Commission : nor have we any reason to suppose that provincial Governments or provincial sentiment would welcome it. There is no evidence,

at present of a movement in any part of India for the establishment of provincial military forces.

169. **Reasons for preferring the continuance of a single army.**—Apart from these considerations, the creation of any new type of armed forces would form, in our opinion, an unnecessary complication. We already have regular troops with British officers, and regular troops in process of Indianization. We have also the territorial forces, and the various battalions of military police maintained by provincial Governments. We doubt if there is room for provincialized forces in addition to all these. We would greatly prefer that all units hereafter selected for Indianization should retain the status and functions of regular fighting troops : and we have little doubt that Indian sentiment would support us in this view. We think that the advantages of a provincial or local connexion could be equally well attained by assigning certain stations as permanent headquarters to some of the Indianizing units of the regular army. Some such arrangement would indeed be desirable for several reasons. The increase of the number of King's commissioned officers in replacement of Viceroy's commissioned officers, for instance, will necessitate the provision of accommodation for officers on a different scale from that provided for ordinary units : and for this reason it will probably become difficult, if not impossible, in future, for ordinary units to succeed Indianizing units on relief, and *vice versa*. We have reason to believe that provincial Governments, if asked or required to maintain armed forces for internal security duties, would prefer that those forces should take the existing form of military police. We accordingly consider that any advance in the Indianization of officer ranks must be made within the army itself, and that units selected for this purpose hereafter must continue to be trained and employed in exactly the same way as those which retain their British officer establishments.

170. **Conclusion.**—But whatever may be the outcome of the Commission's suggestion for the eventual creation of a separate army, we have sufficiently indicated, in the foregoing paragraphs, our whole-hearted concurrence in the policy which they advocate for the meanwhile. Our aim is to proceed with measures for preparing India to undertake a larger share of responsibility for her own defence as rapidly as is practicable : and we shall be ready to adopt whatever means may be found most suitable and effective, for the achievement of that end.

FINANCE.

171. **Considerations which affect the early transfer of responsibility for finance.**—We have referred in a previous

paragraph of this despatch to the special difficulties in the way of any immediate transfer of responsibility for finance, owing partly to the magnitude of the interests which have hitherto been safeguarded under the responsibility of the Secretary of State, and partly to the necessity for the prior fulfilment of certain special conditions. We desire to examine in more detail the special circumstances which surround this highly technical but vital part of the administration. We shall then offer some suggestions as regards the direction in which, and the qualifications subject to which, advance in financial responsibility may be made.

172. **The four principal factors in the situation.**—It will facilitate an appreciation of the practical measures which are required if the principal factors in the situation are analysed and considered separately, though they necessarily to some extent overlap. These factors may be stated as follows :—

(*a*) The great financial significance of the purposes in regard to which Parliament cannot divest itself of all responsibility.

(*b*) The foundations of India's credit and its significance to the country.

(*c*) The unusual responsibilities which the Government now carries in relation to the currency.

(*d*) The particular financial and economic conditions which exist to-day.

173. **The financial significance of the responsibilities of Parliament.**—The special responsibilities of Parliament in the financial sphere may be classified under three main heads. First, if Parliament remains, as it must, responsible for defence, it must be able to ensure that the funds to meet the cost of defence are available. Second, Parliament having been hitherto responsible for the general good government of India could not relinquish this responsibility without ensuring that the debts incurred during its period of responsibility are honoured. In this connection we may recall the assurance given by the Secretary of State to the holders of Indian loans in England in Sir Arthur Hirtzel's published letter of January 27, 1930. Third, Parliament must remain responsible for the pay and pensions, family pensions and provident funds of all officials recruited by the Secretary of State. It may be argued that it would be a sufficient discharge of the responsibility of Parliament, if it were provided as part of the new constitution, that the sums required to make the payments due under the above three main headings should be a statutory first charge on a consolidated fund, payable independent of any vote by the Indian legislature.

But (*a*), a first charge on revenue is of no value unless the necessary taxes are levied to produce sufficient revenue, and

(*b*) in this case the total of the charges including only cost of the army, interest on loans and pensions amounts to about 80 per cent. of the net revenue of the central Government. When a "first charge" absorbs all but a narrow margin of the total revenue, the security implied by the nomenclature disappears. In such a case, the authority responsible for seeing that these payments are made has an intimate concern in the whole financial administration of the country.

We do not go so far as to suggest that this circumstance must constitute a permanent obstacle to any transfer of financial responsibility. But Parliament may not unreasonably demand some signal guarantee for the future, before surrendering the security provided by its direct constitutional power to control proposals for taxation and expenditure through a minister responsible to itself.

174. **Credit of India.**—The maintenance of India's credit is a factor of overriding importance, and having regard to the special circumstances in which India has been governed in the past, the outstanding consideration is that, in the absence of special safeguards and preparation, the removal of the authority and responsibility of the Secretary of State would represent a fundamental change, which might be expected to give a very severe shock to India's credit. However unfair we may feel to be any implied distrust of what is to be expected in the way of financial policy from a responsible Indian Government, it is none the less real, and we have to face realities. We cannot ignore the fact that the foundations on which the financial stability of India depend are of a very special nature ; first, owing to the extent to which up to this point India has relied on external resources for the building up of her existing economic structure ; second, because of the great part which reliance on the credit of the Secretary of State and the responsibility of Parliament plays in the maintenance of that structure. The peculiar features in India's position have arisen mainly from the historical connection between the United Kingdom and India both in civil administration and in defence, and in the supply of capital raised in the United Kingdom for the construction of railways, and canals, and other public works. India has in consequence built up very large sterling

commitments in the form of loans, pensions, and similar obligations.

Moreover, India's credit for the purpose with which we are concerned means something more than the credit of the Government of India as a borrower. Vast amounts of private capital have been invested in the development of the country and its industries, and it can hardly be disputed that a large part of this investment has been made in reliance on the prevailing system of administration, especially financial administration, of the country. A sudden and fundamental change, creating uncertainty and doubt as to future policy, would inevitably result in a withdrawal of a large part of the capital already invested, and stop the free supply of further capital which the proper development of the country urgently needs. Even the fear of such a change would be sufficient to produce these results, as the experience of recent months has shown. It must also be realized that the withdrawal of existing capital and the restriction of fresh supplies would not merely concern British capital. There are many Indian investors who might seek to invest their capital abroad if they lost confidence in Indian administration, and of this danger also there has been evidence during the last few months. The effect on movements of capital to which we have referred might well be felt on a scale which would mean financial and economic disaster.

Whatever may be thought from the Indian point of view about the desirability of this state of affairs, in which India relies so much on external credit and external services, it is a vital element in the problem, which must be faced with all its consequences, the chief of which is that the means of livelihood and the welfare of a vast portion of the Indian people depend at present on these foundations. If the foundations were withdrawn without an adequate and careful period of replacement, the whole Indian economic life as it exists to-day might collapse.

We do not suggest that the factors just mentioned would not be fully appreciated by a popular Finance Minister in India, and indeed we think that their very existence should afford the strongest reasons for his pursuit of a sound financial policy. But change is always unsettling, and our purpose rather is to emphasize the need for establishing confidence before such a change is made.

175. **The Government of India's responsibilities in relation to currency.**—The third factor to be considered is the unusual responsibility which the Government now carries in relation to currency. It is, of course, a well known feature of

the situation in India that the responsibility for supporting exchange, and therefore assuring that adequate remittance can be made to meet all foreign exchange requirements, public and private, has in practice been undertaken by the Government and has recently been made a statutory obligation. It has long been felt that this is, on grounds of principle, undesirable and that the right course must be for India to follow the practice of other countries, by providing that the control of both currency and credit should be united in the hands of a central bank acting independently of Government. The underlying idea in all countries is that the currency authority should be free to conduct its policy in accordance with the dictates of sound finance detached from all political influence. The official character of the Government in India has hitherto been a distinguishing factor, and it is obvious that the reasons for introducing the practice of other countries into India would be enormously reinforced, if the finance portfolio were to pass into the hand of a minister relying for his position on the support of a political party. We wish therefore to state in unambiguous terms that the formation of a reserve bank on sound lines must in our view be a condition precedent to any transfer of financial responsibility from the agents of Parliament to a minister answerable to the Indian legislature.

It must, however, be admitted that the present is an exceptionally unfavourable time for an attempt to establish a reserve bank. During the present period of falling prices the currency authority of a country like India, which relies mainly on agricultural exports, must be forced, in order to fulfil its duty for maintenance of exchange (whatever the statutory ratio may be), to follow a course involving the removal of redundant currency from the market. The bank would have to rely on the use of its sterling resources or on sterling borrowing, in which respect its position would be far weaker than that which the Government has held hitherto with the credit of the Secretary of State behind it. But more important still, as has already been pointed out, any sudden change in the administration, or fears as to the future constitutional position, may start a tendency for capital to leave India, and so long as this is going on the balance of remittance may be insufficient, with a consequent increase in the strain on the bank's reserves or on its capacity to borrow. Lastly, a special difficulty is created by the fact that in any case a special strengthening of reserves is necessary, for the present gold and sterling reserves held for currency purposes by the Government cannot be regarded as sufficient for the secure working of the reserve bank even in normal times. As

indicated in the report of the last Currency Commission, these reserves will require to be built up gradually, and it is difficult to see how, in all the circumstances, this can be done without further external borrowing on a large scale.

The combination of circumstances, to which we have referred, means that the inauguration of a reserve bank to relieve the Government of its functions in regard to currency and exchange is a matter, which demands careful preparation and a combined effort by the Government and the people of the country. It cannot be regarded as a condition easy of fulfilment or lightly left to an uncertain future. At the same time, we must make it absolutely clear that it ought to be definitely a part of our programme, and that it should be undertaken at the earliest possible moment.

We wish here to emphasize one further consideration, *viz.*, that it will be necessary that the constitution of the bank should contain safeguards for its future control against the danger of political interference. We should hope that it would be possible to convince Indian opinion of the desirability that such a bank should work in close co-operation with, and on lines approved by, the Bank of England. This idea could be supported by the general consideration of the importance of co-operation between the central banks of the world, and especially within the Empire ; while the action just now being taken by the Bank of England in giving counsel in a period of great difficulty to Australia may help to convince Indian opinion of its value. Whatever the future for India may be, she must always be greatly dependent upon her standing in the London money market, and nothing could be of greater service in this direction than a close co-operation between a central bank for India and the Bank of England.

176. **Special difficulties inherent in the present financial and economic position.**—Finally, we come to the present special difficulties inherent in India's financial position and in world economic conditions. These are so well known as to require no detailed explanation. The difficulties fall mainly under three headings. First, the general economic difficulties from which all countries which rely mainly on agricultural exports are suffering at the present time. Second, the serious after-effects on public and private finance which may be expected to result from the present political disturbance and the programme of those who have organized the civil disobedience campaign, effects which, even if that campaign were immediately terminated, must be felt in the country for a long time to come. Third, the obligation for redemption of existing loans of the Government of India which will be particularly heavy over the next three years,

and the need for further resources in gold or external capital, not only to continue the development of India's railway system, but for establishing a central bank with adequate reserves. It would indeed hardly be possible to imagine a combination of circumstances more unfavourable to an immediate change of policy, which might result in shaking public confidence in the credit of India.

177. **Importance of central Government finance in the new constitutional scheme.**—There is one further consideration which should be mentioned at this point, namely, the vital importance of maintaining the financial stability of the central Government in India in relation to the constitutional scheme which we are now considering. The proposals of the Statutory Commission would give a wide extension of responsibility and independence to the provincial Governments. Nevertheless, the provinces cannot be regarded as separate economic units, and they must remain to a large extent dependent on the central Government's financial administration and the maintenance of its credit. At the same time, the administration of finance in the provinces may on its side react to an important degree on the general financial position of India, and the centre must be strong enough to protect the situation. Central Government finance indeed may be said to represent a key point in the proposed constitutional structure which may be exposed to heavy and uncertain strains. India can hardly afford to run risks at this point during the early years of the new régime in the provinces.

178. **Conclusion that transfer of responsibility requires fulfilment of certain conditions.**—From this review of the main factors in the present position we are forced to the conclusion that the occasion for a transfer of financial responsibility cannot be reached apart from the fulfilment of certain conditions, such as the restoration of normal economic conditions, the re-establishment of credit and confidence, and the inauguration and successful working for some time of a reserve bank with adequate sterling reserves. Some of these conditions, such as the last, are clear, and their fulfilment is capable of precise determination. Others are essentially more general and in the last resort His Majesty's Government must be the sole judge of their realization. It is at this point that the essential difficulty arises, and it is precisely on the subject of these conditions that free discussion at the Round Table Conference is likely to be helpful. Pending such discussion we are reluctant to propound final proposals, and in the following paragraphs we do no more than attempt to indicate the general significance of what we have in view.

179. **Possible lines of development.**—The essence of what we contemplate is that we should endeavour as a first step to embark upon a period which is definitely acknowledged as a period of preparation for the transfer of responsibility. Our declared object would be to create such a state of affairs as to make a transfer possible, and to do this with no avoidable delay. It would be the task of the Government to do all in its power to expedite the fulfilment of such of the conditions referred to in the preceding paragraph as it can influence, and accordingly, in co-operation with representatives of Indian opinion, to complete the inauguration of a reserve bank on the lines which we have already sketched, and to consolidate the financial position, both as regards revenue and expenditure and the public debt. A concerted effort will be required to overcome the special difficulties referred to in paragraph 176 and to work out a financial programme for the future which will inspire confidence. We trust that our suggestions for a unitary executive, which may give greater harmony with the legislature, may go some way to help in this direction, and we would also hope that committees of the legislature might provide opportunities for co-operation between Government and the popular representatives.

Apart from these matters, it is necessary to say some thing of those other conditions less easily definable to which we have referred, the essential purpose of which would be to establish confidence in Indian administration. The main weight of this task must lie with the leaders of Indian opinion. An authoritative declaration by responsible leaders that they entirely discountenanced the doctrine of repudiation of debts would be of some value, but beyond this it would have greater practical effect, if Indians could give some signal proof that they are willing to mobilize their private resources for the sake of establishing the national financial position. We say no more on this subject now, leaving it to be further developed in discussion at the Conference. Our general outlook on these questions is that on the one hand, while fully recognizing the special difficulties inherent in a transfer of financial responsibility, we accept the position that an eventual transfer is implicit in the declared policy of an advance towards self-government in India, inasmuch as financial responsibility is one of the most essential parts of the responsibilities of Government. But we feel that the chances of obtaining that co-operation from Indian public opinion, requisite for the fulfilment of the conditions to which we have referred, will be largely dependent on the clarity with which such conditions can be defined, and the certainty with which the intentions of His Majesty's Government can be stated. On the other hand, we must emphasize that the chances of an advance are

dependent on action to be taken on the Indian side, for we consider it essential that Indians should realize that they also have a definite task to fulfil, and that it is for them to dispel the misunderstanding and mistrust that have been created. We do not overlook the difficulties in the way of defining precisely how this is to be achieved, but we are of the opinion that, unless His Majesty's Government state clearly what is required, and Indians are given a fair chance of making a response, with assistance given generously from the British side, we cannot expect Indian opinion to accept the difficulties of transfer as an excuse for its indefinite postponement.

There is one subsidiary matter to which we might refer before leaving this subject. If we look forward to a period when the finance portfolio may be held by a responsible minister, in distinction from the system which has prevailed hitherto of filling this post with a specially selected financial expert, one consequence may be to throw a greater burden on the permanent staff of the Finance Department. An elected minister, even if he is himself experienced in finance, will have to devote more of his time to political activities and to rely more on his permanent officials as regards departmental work, and we must emphasize the need for greater continuity, than has under the present practice prevailed, in the personnel of the highest posts of the department. The recruiting of suitable officers, and a provision for their training, will become of greater importance ; while it must be remembered that the special training ground which is now available in the currency department of the Government will no longer exist after the inauguration of a reserve bank. This may appear to be an administrative rather than a constitutional point, but we attach great importance to it.

180. **Safeguards after responsibility is transferred.**—It will be clear from the nature of the present responsibilities of Parliament, as envisaged in preceding paragraphs, that Parliament, so long as certain obligations inherent in the position created by past history remain, could not escape the ultimate responsibility in many important respects, and for this purpose it would be necessary to preserve certain safeguards, even after the primary responsibility for financial administration had been transferred to a minister responsible to the Indian legislature. The nature and extent of these must to some extent depend on the measure in which the general conditions precedent had been fulfilled. It is not necessary for our immediate purpose to examine them in detail. They would include :—

(*a*) The creation of consolidated fund charges to cover such items as interest on debt, railway annuities,

pay, pensions, family pensions, and provident fund payments for civil officers appointed by the Secretary of State, and army officers, and expenditure on defence,

(*b*) Some powers of supervision and control to be vested in the Governor General for the purpose of maintaining financial stability,

(*c*) Provision for resumption of control by the Secretary of State in the event of a threatened financial breakdown or an actual default under (*a*).

The provisions under (*b*) and (*c*) imply an adequate supply at all times of information to the representatives of His Majesty's Government.

We have stated these provisions in very general terms, for in the nature of the case it is difficult to be more precise, particularly as regards provision (*b*). Much would depend on the manner in which such a power was exercised. It would be a negation of the whole object of the constitutional arrangement which we are considering if interference was carried to the point of destroying the minister's responsibility. There might, however, be occasions of financial danger, short of an actual default, when a power to hold up rather than to veto inadvisable action might be of value and give the popular representatives a chance to reconsider the position and follow wiser counsels. It is probable that, if and when this stage was reached, the Governor General might usefully be assisted by a financial adviser. An adviser, if he had the right personality and experience, might perform an important rôle and establish relations with the finance minister which would be of assistance to the latter. Subject to the safeguards which we have indicated above, we should suppose that at this stage the finance minister would have become responsible to the legislature, and that the supervision, direction and control would have passed to the Governor General, acting on behalf of His Majesty's Government under the superintendence of the Secretary of State. We should further suppose that by that time the advisory committee of the London branch of the reserve bank would have been constituted. This committee would be available to give advice either to the finance minister or to the Governor General with his financial adviser. The future evolution of these arrangements would necessarily have to depend on practical experience. We should, on the assumption that all went well, look forward to a gradual development through decreasing use of the special powers of the Governor General.

181. **Relations with the Secretary of State.**—Concurrently with the action which we have described in paragraph 179 by way of preparation for the later transfer of financial responsibility, we recommend some modification in the relations between the Government of India and the Secretary of State. In a subsequent portion of this despatch we shall consider the general constitutional aspect of this question, and it is sufficient to say here that in our view the Secretary of State should in future exercise only a power of superintendence, direction and control, remaining the first executive authority in such matters only as might be definitely removed from the exercise of the authority of the Government of India. It is first necessary to ask whether there are any such matters in the field of finance.

(*a*) *Sterling borrowing.*—We take first the question of sterling borrowing. In the report* of the Indian Statutory Commission reference is made to a suggestion that the High Commissioner, instead of the Secretary of State in Council, should undertake the task of floating sterling loans for Governments in India, and should be assisted in its performance by a small committee of experts. The main reason given is that the control of currency in India, and the raising of loans in India rests, in practice, with the Government of India. This statement does not accurately represent the facts. The amount of loans raised in India, and the terms on which they are raised, are subject to the approval of the Secretary of State, while the Secretary of State's control in currency affairs is not by any means confined to broad questions of policy. Moreover, the Secretary of State manages such matters as the ways and means operations in London, the investments of the Home treasury balances, and the sale and purchase of silver.

When the reserve bank scheme was under discussion in 1927, it was contemplated that the bank should undertake all the remittance operations of the Government of India, and would supply the Secretary of State with sterling funds against corresponding debits in rupees in India. If the same line is followed when a reserve bank is created, practically all the control of the Secretary of State over the details of the currency and ways and means operations will automatically cease, and it might then be desirable to relieve him of the function of floating loans for the Government of India. The reserve bank manager in London might have an advisory committee to assist him, and the High

* Volume II, para. 311.

Commissioner in consultation with the manager of the reserve bank and his advisory committee, could suitably undertake the management of the Government of India's sterling borrowings. But until the reserve bank is created we consider that, from the administrative point of view, it would only make for inconvenience and delay to transfer these functions to the High Commissioner, and there would in addition be the possibility of difference of opinion and friction between the advisers of the High Commissioner and the Secretary of State, who would still retain his powers of superintendence, direction and control.

Our view, therefore, is that the question of transferring the function of borrowing in London from the Secretary of State to the High Commissioner should in any case be postponed until a reserve bank is created. Moreover, and this is a governing consideration, the effect of such a transfer of the borrowing function on the standing of Indian loans in London would need to be carefully considered. Many technical points of substantial importance, such as the effect on the position of the Government of India sterling securities as "trustee securities", require careful examination when any change is considered, and on them we shall address you separately. For the present the function of borrowing in London, or more correctly outside India, together with the control of ways and means operations in London, and the investment of the Home treasury balances, can well remain in their present form with the Secretary of State.

The control over the gold standard reserve is another matter which may be held to fall within the same category, though here again the creation of a reserve bank and the amalgamation of the reserves would alter the situation. The recommendations made in this sub-paragraph are intended to be read in the light of the general observations made in sub-paragraph (*e*).

(*b*) *General financial administration.*—We would suggest that in all other matters the powers of the Secretary of State should be those of superintendence, direction and control. The control of the Secretary of State over finance is at present of two kinds. The general control, which has as its object the maintenance of financial stability and the observance of canons of sound finance, cannot be defined by rule, and includes general control over such matters as the budget and taxation, currency, exchange, remittances and borrowing. In this latter sphere we contemplate that the control will more and more be confined to broad questions of policy, and that interference in details of administration will be avoided. More exact definition is hardly possible, but we recommend

in a later portion of this despatch that the Secretary of State's controlling power should be specified in the same terms in which Parliament may see fit to define the purposes which it must continue to be concerned to secure in India.

(*c*) *Other matters for control.*—There are other matters in which control can be defined by rule, as at present in the central audit resolution. Here the Secretary of State will require to retain such control as is necessary to safeguard his responsibility for members of the services appointed by him, and rule 1 of the appendix to the central audit resolution will in substance have to be retained. Rules 2 and 3 which impose restrictions upon the Government of India's powers to create permanent and temporary posts have already been greatly relaxed by rule 10 of the new Classification Rules, but these restrictions might now, in our opinion, disappear. Similarly the grant of unusual pensions (rule 4) should be left to the discretion of the Government of India. Rules 5 to 7 deal with expenditure on military works and stores. We doubt whether these special restrictions by rule are necessary in addition to the general power of superintendence, direction and control. Rule 8 (*a*) and (*b*) deals with minor matters which might be left to the Government of India. Rule 8 (*c*) deals with the Governor General's amenities, staff, household and contract allowances, etc. There may be some advantage in reserving the control in these last mentioned matters for an outside authority, but apart from this possible exception and the retention of rule 1 relating to the services, all the restrictions in the central audit resolution might be removed.

(*d*) *Secretary of State's Council.*—We deal elsewhere with the constitutional position of the Secretary of State's Council and will merely add here that we regard it as important, not that there should be financial control by the Council—indeed we are recommending the abolition of the financial veto by the Council—but that the Secretary of State should have at his disposal the best financial advice available in the City. This is a subject which requires further discussion, but we need say no more for our present purpose.

(*e*) *General spirit of relations with the Secretary of State.*—We may perhaps with advantage sum up our views as to what henceforth should become the relations between the Secretary of State and the Government of India in financial matters.

We consider that, whatever the immediate constitutional changes may be, a stage has been reached now when the main direction of financial policy must definitely be regarded

as resting with the Government of India, and that the function of the Secretary of State should be regarded as that of giving counsel and support in financial matters to the Government of India rather than that of exercising detailed control. Indian opinion is very closely interested in the conduct of Indian financial affairs in London, and particularly in the sterling borrowing policy together with the methods of floating loans. Subject always to the observance of principles of sound finance, it is desirable that the financial policy should be conducted in a spirit responsive to Indian opinion, and we should go so far as to recommend this, even if on occasion some slight sacrifice may have to be incurred. No system can work successfully if Indian opinion is strongly opposed to the policy of Government, and comparatively minor matters often lead to a disproportionate amount of political hostility; while the cumulative effect of a number of minor irritants may sometimes provoke political opposition of real importance. If the Secretary of State can support India's credit in London, can make available to the Government of India the best advice from the city of London, can from his records supply an element of continuity and knowledge of past history as an aid in assessing the problems of to-day, and can, by counsel given in a detached atmosphere, supply at times a balance to views perhaps unduly influenced by local factors, then his co-operation can be of the greatest possible value to India, and the relation thus interpreted might even with advantage continue when the finance portfolio came to be actually held by a minister responsible to the Indian legislature. But the success of such a relation depends on the realization of its limitations, and any attempt to control the details of India's financial policy from London must be regarded as an anachronism.

COMMERCE.

182. **The demand for liberty to control economic policy.**— For a number of years past there has been an insistent demand from Indians of all shades of political thought that the economic policy of the country should be shaped on national lines, that in particular industrial development should be actively pursued, and that the control should be placed in Indian hands. Even under the present constitution an attempt has been made to meet this demand by means of the fiscal autonomy convention, according to which the superintendence, direction and control of the Secretary of State are held in suspense, when the Government of India and the legislature are in agreement on any question of fiscal policy. If the attempt is to be made to give to Indians a larger share in moulding the policy of the central Government, there can be no question that in the economic

sphere the demand for a further advance is keen, and unless in this region some transfer of power proves feasible, it will not be possible to satisfy Indian aspirations. The question to what extent power can be transferred, therefore, is of great significance and must be fully considered. We have no desire to magnify obstacles, which it may be possible to remove, into insuperable barriers, but there are real difficulties to be overcome which cannot be ignored or brushed aside. Most of the subjects which require mention are under the administration of the Commerce Department, but we shall refer also to cognate subjects, which are at present controlled by other departments of Government.

183. **The customs tariff.**—The most powerful instrument which a Government desirous of pursuing an active programme of industrial development can employ is the customs tariff. But the tariff has a dual aspect, for while tariff policy exercises a decisive influence on the economic and industrial life of the country, the Government of India must look to the tariff as the principal source of their revenues. Revenue considerations, therefore, must play a large part in shaping tariff policy. Again, tariff policy may have international reactions, or may raise questions between India and other parts of the Empire, and Parliament must necessarily retain control in the sphere of external relations. For the present, therefore, two limitations on India's complete control of the tariff are inevitable. Of these, the financial limitation is inherent in the facts, and a finance minister responsible to the Indian legislature, no less than an official finance member, would necessarily regard the tariff from a point of view by no means identical with that of the member or minister in charge of the commerce portfolio whose primary interest is the effect of customs duties rather than revenue. But even during the period within which, for the reasons adduced in paragraph 178, the control of the Finance Department might remain in official hands, the financial considerations need not prevent substantial progress in the direction which Indian opinion favours. The second limitation is not likely to involve constant interference, but is consistent with the grant of considerable latitude to the Government of India and its representatives, when commercial negotiations have to be undertaken either with foreign countries or with other parts of the British Commonwealth. So far as Great Britain itself is concerned, control might reasonably be exercised to secure for British goods most favoured nation tariff treatment, but it would be for the Indian Government and legislature of the future to decide all questions of preferential rates of duty. Other countries within the Empire do not necessarily extend most favoured nation treatment to Indian goods, and subject only to the general super-

vision of the Secretary of State, the authorities in India should be free to deal with each case as it arose. Apart from the two limitations we have mentioned in the spheres of finance and external relations, we contemplate that there should be no outside interference with India's management of her customs tariff, and we believe that a wide field will be opened up within which Indian members of the Government will be able to give effect to India's desires.

184. **Discrimination against British business.**—We have referred in an earlier paragraph to the necessity of devising effective guarantees, which would secure British firms and companies doing business in India against unfair discrimination. The apprehensions felt by the British business community arise chiefly in connection with the laws relating to joint stock companies generally, and to insurance and banking companies in particular, the laws relating to merchant shipping and inland navigation, the policy which might be pursued in the development of industries by means of bounties or direct State assistance of other kinds, the position of public utility companies, such as railways, tramways and electric supply companies operating under licence or under contract with the Secretary of State, and of the holders of mining leases granted by Government, and the security of those engaged in professions and callings for which special qualifications are required, such as those of doctors, chartered accountants and lawyers. The field covered is a wide one, and includes many subjects of first class importance to India's economic future. We believe that if once agreement could be reached as to the position of British enterprise in India, and if by that means the apprehensions of the European business community could be removed, there is no reason why the control of policy should not pass into Indian hands, and in that case the occasions for interference by the representatives of Parliament would be very infrequent. The problem is to devise means by which India's reasonable aspirations can be satisfied without injustice to those British trading interests which have contributed much to India's past history, and which, we believe, have a valuable part to play in India's future. The question is both important and difficult, for while we cannot but sympathize with the earnest desire of Indians to see their countrymen taking an increasing share in the commercial and industrial life of the country, we must also take account of the anxiety with which European business men regard the future after the transfer of power has taken place, and in so far as this anxiety may seem to be well founded, we are concerned to provide safeguards against injustice. We could not in the space at our disposal attempt to discuss in any great detail the various subjects which would require consi-

deration before any settlement could be reached, nor indeed is it necessary to do so for our present purpose. But it may be useful if under the various heads we attempt to indicate the apprehensions which are felt and the reasons underlying them.

185. **Qualifications for the practice of certain callings.**—Some of the subjects to which we have referred can be dismissed briefly. The qualifications required for the practice of certain professions or callings may be mentioned first. A chartered accountant, for example, may be qualified under the existing law to practise his profession in India in virtue of the British qualification which he possesses. It should certainly be open to the legislature to prescribe what qualifications would be necessary for the future, and to require that these qualifications should be the same for all candidates of any nationality, but apprehensions are undoubtedly felt that the legislation might take a form, which would deprive those qualified under the existing law of the privileges which they enjoy. We do not think that on this point there will be any serious controversy, but legislation of the kind apprehended would obviously be unjust.

186. **Public utility undertakings.**—Next in order it may be convenient to take public utility undertakings, operating under licences from Government or under contracts with the Secretary of State, and the companies or firms holding mining leases from Government. Ordinarily both the licences and the contracts give an option to Government to decide, at fixed periods, whether the concession should be terminated, and lay down the terms upon which, if the option is exercised, the property of the company must be acquired. Similarly, mining leases are granted for fixed periods, at the end of which they terminate, if not renewed. Save in so far as financial considerations may have an important bearing on the decision whether to terminate a concession or not, we see no reason for the exercise of any special powers of control by the agents of Parliament, when the termination of a concession at the appointed date is in question. But apprehensions are in fact felt by the non-Indian companies, who have received these concessions, that either the powers (other than the power of termination) reserved to Government under the licence or contract may be exercised to their detriment, or that by legislation a concession may be terminated before its due date, or alternatively that the terms of a concession may be modified during its currency to the detriment of the company. We entertain no doubt that power should be reserved to secure just and equitable treatment in this respect for firms and companies concerned, if the occasion for its exercise should ever arise.

187. **Ordinary British commercial undertakings.**—The cases considered in the last two paragraphs are comparatively simple. When, however, we turn to consider the position of the British companies which enter into competitive business in India, competing on equal terms with Indian enterprise, the case is different and requires fuller consideration. Such companies may be engaged in general trade, or industrial production, or may undertake more specialized business such as banking or insurance. So far as the companies engaged in industrial production are concerned, apprehension has been aroused by the frequently expressed demand for direct Indianization, to be secured by the imposition of conditions as to the number of Indian directors, and the facilities to be afforded for the training of Indian apprentices, or, in the case of new companies, by requiring that a proportion of the shares, sufficient to establish Indian control, should be definitely reserved to Indian investors. Sometimes it has been suggested that these conditions should be enforced only when the company is engaged in a protected industry, or when it is in receipt of bounties (or other direct assistance) granted by the State in order to encourage the development of industries, and sometimes that they should be imposed upon all companies as a condition of engaging in a particular manufacture or trade. The proposals made as regards insurance and banking companies have been somewhat different. Direct Indianization has not been much in evidence, and the line taken has been to advocate schemes under which non-Indian companies would be allowed to operate in India only under licence, or subject to special restriction and conditions. Some of the proposals made may be regarded as fair subjects for discussion on their merits, provided that all companies, whether Indian or non-Indian, are to be treated alike, but some advocates of proposals of this kind have not attempted to conceal the fact that one of the objects, which they had in view, was to promote the growth of Indian companies at the expense of British companies, and for this purpose to impose restrictions on non-Indian companies, which would not be applicable to Indian companies. Other examples might be given, but we shall mention only two. In Bengal there have been many expressions of feeling against the British companies which operate the inland steamship services. We are not concerned here with the merits of the complaints made, but the attitude of those who have been prominent in the agitation makes it clear that their ultimate objective is the transfer of the inland steamship services to Indian hands, and that, in their view, the powers of Government and of the legislature ought to be freely used to achieve that result. Finally, we may refer in a sentence to the agitation on the subject of the reservation of the Indian coastal

traffic to vessels owned and managed by Indians. The object sought to be attained is the development of an Indian mercantile marine, but the method proposed to be adopted is the exclusion from the trade of all non-Indian companies.

188. **Indian feeling that existence of British enterprises blocks advance.**—We have said enough perhaps to make it clear that the apprehensions of the European business community are not without substantial foundation. During the last ten years, in one branch of commerce and industry after another, the evidence has been unmistakable that important sections of Indian opinion desire to secure the rapid development of Indian enterprises, at the expense of what British firms have laboriously built up over a long series of years. There is nothing surprising in the fact that national consciousness should thus have found expression. Indians who desire to see the growth of Indian banking, Indian insurance, Indian merchant shipping, or Indian industries find themselves faced by the long-established British concerns whose experience and accumulated resources render them formidable competitors. In these circumstances, it may seem to them that the ground is already occupied and that there can be no room for the growth of Indian commerce and industry until the British firms which are already in the field can be cleared out of the way. But, however natural such feelings may be, they might lead, if allowed free scope, to serious injustice, and partly as a consequence of this and partly for other reasons they are fraught with grave danger to the political and economic future of India. We feel real apprehension as to the consequences which may ensue, if the present attitude of mutual suspicion and embitterment is allowed to continue and to grow worse. For this reason we regard it as of high importance that the attempt should be made now to arrive at a settlement which both parties can honourably accept. So long as the power to direct policy in the economic sphere rests with the agents of Parliament, it will be impossible, we fear, to combat the suspicion, however unjust, that the interests of British trade weigh more with the Government than the interests of India. In itself we regard this as a cogent reason why commercial subjects should in future be administered in accordance with the views of the legislature. But equally, if the transfer of power were to take place before means had been found to allay the reasonable misgivings of British business men, the consequences must be grave. In the last resort no doubt overriding powers would have to be reserved to the agents of Parliament to interfere in order to prevent injustice and to secure fair treatment. But if, as we fear in default of agreement might be the case, occasions for interference were

frequent, the friction generated would be intense and the harmonious working of the administration seriously prejudiced.

189. **Necessity of doing justice to both British and Indian points of view.**—If agreement is ever to be reached, full justice must be done both to the British and the Indian points of view. The differences which have disclosed themselves relate not to aims but to methods. We do not believe that the British community in India have any lack of sympathy for Indian ambitions, or any desire to retard the development of Indian industry and commerce. But what has aroused their fears is the tendency displayed in certain quarters to advocate measures designed to secure the rapid development of Indian enterprises at the expense of the British concerns already established in the country. Proposals such as we have described in paragraph 187 cannot but convey the impression to the British business community that, if commercial policy came to be administered in responsibility to the Indian legislature, they would have no security of equal treatment, that they would be left to carry on their business only on sufferance, and that indeed they might expect to be treated in all respects as foreigners. Such a position they may well feel, apart from any question of justice, is consistent neither with the part which the community has played in the development of the country, nor with the intimate relations which must continue to exist between Great Britain and India. But if once they could be assured that an Indian Government would treat them not as aliens but as citizens, we do not doubt that they would play a worthy part in the commercial life of the country, and that as time went on their co-operation in furthering the attainment of the objects which India desires would be forthcoming in increasing measure.

From the Indian side, the objection may be raised that, if the interests of British concerns are to be fully safeguarded, no room is left for the development of Indian commerce and industry. Where feelings of this sort are in fact entertained, we think they are largely due to a misconception. For one thing they do much less than justice to the developments which have already taken place, particularly, to give only one instance, in the cotton mill industry. Again, if the control of the tariff is placed in the hands of the Indian legislature, it will control the most powerful instrument which can be used to promote industrial development. With certain exceptions, the principal British firms established in the country are for the most part engaged in enterprises, such as the jute mills and the tea gardens, which are not likely to come

within the scope of any protective policy, and Indian companies could hope to start unhandicapped by the competition of established British concerns. Another point to be remembered is that enterprises, at present British, may in the ordinary course of events and owing to natural causes pass into Indian hands, as has already happened on more than one occasion. Apart from actual transfers of ownership, we do not doubt that British undertakings will in future find it to their advantage to go a long way in the direction of Indianization, by providing facilities for the training of Indians, by enlisting the support of Indian capital to the largest extent practicable, and by the appointment of Indian directors to companies registered in India, or by the appointment of local boards containing Indians, if the company is registered outside India. Many British firms, both in India and in other countries, have adopted this policy in the past, but they would no doubt feel that there is a wide difference between a process which comes about through natural causes and one which is artificially and arbitrarily imposed by governmental action. Finally, there are methods by which Indian aspirations could be satisfied without inflicting injustice. Thus, for example, when it is proposed that direct State assistance should be given for the encouragement of industries, it would be perfectly open to the Government to attach conditions as to Indianization, in the case of all firms who may apply for assistance but were not already engaged in the business at the time the scheme of assistance was sanctioned. This was the recommendation in 1925 of the External Capital Committee, of which two Members of the Government of India were members, and both before and after the submission of the Committee's report, action in this sense has been taken as, for example, in the Steel Industry (Protection) Act of 1924. No one, we think, could fairly claim that the discretion of the legislature should be fettered, except to the extent necessary to secure justice to those firms which had already established themselves in the country. As a final example of what is in our minds, we may refer again to the inland steamship companies. It might be considered desirable on public grounds that the inland steamship services should be brought under public control as part of the general transport system of the country, and administered in close connection with the railways. In such an event, all that the existing companies could fairly claim would be that they should not without compensation be deprived of their existing right to operate their services and that the compensation to be paid should be determined by an independent tribunal.

190. **Desirability of agreement.**—We have attempted by illustration to indicate the lines on which British and Indian

opinion might be brought together, but it is not possible at this stage to go further. In our view, the matter is one which requires full and frank discussion between those principally concerned, and we have no doubt it will receive close attention at the Round Table Conference. There are of course many points which would require consideration in detail, and it may not be possible for the Conference to examine them fully, but if the prospects of agreement seemed good, they might suitably form the subject of further discussion either in India or in England. The essential pre-requisite of a satisfactory agreement seems to us to be the frank recognition on either side of what the other can reasonably claim. The British business community has played an important part in the history of the country, it controls commercial enterprises of the greatest magnitude, its elected representatives sit, and will no doubt continue to sit, in the legislatures, it can still make valuable contributions to the welfare and prosperity of India, and its members may rightly expect that they should not be treated as foreigners. We have already referred to the intimate connection which must continue to exist between Great Britain and India, and it seems to us to follow that, subject always to India's right to receive reciprocal treatment, citizens of any part of the Empire should be allowed to enter India freely, to engage freely in any trade, business, profession or calling, and when established in India, to receive just treatment. From India's side it may well be urged that she should be free to develop her own industry and commerce by any means which do not inflict injustice on any section of the community, and do not involve the exclusion of British citizens from participation in India's future development. A further claim might also be put forward on her behalf. There are enterprises which Indians regard as national, and which at present are mainly or wholly in British hands. It would be idle to expect that they would be content for an indefinite period to remain without their appropriate share in the conduct of these enterprises, and if the methods at first proposed in order to satisfy Indian hopes must be ruled out because they involve injustice, or are inconsistent with the position which Great Britain holds in India, Indians may fairly ask that the British business community should co-operate in finding other methods to bring about the desired result.

The possibility of reaching an agreement on these difficult matters depends largely upon the spirit in which they are approached. Notwithstanding the unfortunate history of the last few months, we believe that there is sufficient goodwill on both sides to overcome the difficulties if they are frankly faced. The importance of reaching a permanent settlement of the question can hardly be exaggerated.

More perhaps than any other single factor, it would help to create harmonious relations between Great Britain and India, on the strength of which we could look forward with confidence to a future in which Indian and British enterprises could work together on terms of mutual advantage and respect.

RAILWAYS.

191. **Administration of the Railway Department.**—The commercial and industrial prosperity of any country is largely dependent on the efficiency of its transport system, and particularly of its railways. In India the distances are so great that low freights are essential to the growth of industries, as well as to the welfare of the agriculturist, while at the same time the railways are by far the largest purchasers of manufactured articles in the country, and the railway demand is a vital factor in the prosperity of the engineering industry. In these circumstances it is natural that those who desire freedom to develop Indian industry and commerce on national lines, should also put forward an insistent demand in regard to the railways. In our view the demand is one which should be met as far as possible, and we think that if in the future the control of commercial and industrial policy is to rest with the Indian legislature, the general direction of railway policy should be placed in the same hands. It becomes necessary therefore to consider both the limitations which, for the present, Parliament might think fit to retain in order to safeguard those matters in which it is interested, and also the conditions under which the control of policy could safely be transferred. The latter point is one to which we attach great importance, for while in all countries railway policy is a matter for Government and the legislature to decide, it by no means follows that the commercial management of railways can be wisely or safely exercised by those whom the legislature directly controls.

192. **Purposes for which Parliament must retain control.**—The purposes in which Parliament must, we think, continue to be interested so far as the railways are concerned fall under the heads of Defence, Finance, the Services, and the Anglo-Indian community.

Defence.—Those who are responsible for the defence and internal security of the country clearly cannot disinterest themselves in the efficiency of the railways, for any serious breakdown might have calamitous consequences in a crisis. It is not only the strategic lines on the frontier which are in question, but also the main trunk lines throughout India, and the military authorities are entitled to assurances both

as to the adequacy of the equipment of the lines and of their standard of maintenance, and as to the efficiency of the traffic arrangements.

Finance.—Under the head Finance, account must be taken of the enormous capital sums (largely raised in Great Britain) which have been invested in the railways. It is true that the security on which the loans were raised was not the railway revenues alone, but the whole of the revenues of the Government of India. If, however, the railways were unable to earn their interest charges, it is much to be feared that the burden would be too heavy for the Government of India to meet, and the solvency of the railways is therefore an interest which Parliament is bound to safeguard. There is another point at which the connection between the railways and the Finance Department is close and intimate, for the raising of capital for railway development must both react, and be dependent, on the general credit of the Government of India and its financial circumstances from time to time. Whether the connection could be rendered less direct and immediate by proceeding further with the separation of railway finance is a question which should be explored, but under existing conditions the Finance Department is most intimately concerned in many questions of railway policy.

Services.—Under the head Services, several points require notice. In the railway services, as in others, the existing and accruing rights of officers appointed by the Secretary of State must be safeguarded, and it will be important also to ensure that a large number of the senior officers do not quit the service prematurely. Indianization is now going forward rapidly, the rate of Indian recruitment for the superior services being 75 per cent., and we have no desire to retard the process ; but the possibility of efficient administration depends on the retention of the existing senior officers until Indians are in a position to replace them. Finally, questions may arise as to the percentage of European recruitment, which for the future may be deemed necessary on military grounds.

The Anglo-Indian community.—The Anglo-Indian community has in the past rendered very important services to the railways and still holds a large number of posts in particular branches of railway work. The economic life of the community is indeed to a large extent dependent on the opportunities of employment which the railways offer, and its members are gravely apprehensive of what may occur, if and when any change takes place in the present system of administration and control. In view of the history of the community, a special obligation, we think, rests upon Parliament, before relaxing its own control, to ensure, as far as

may be practicable, that the interests of the Anglo-Indian community are protected.

193. **Necessity of separating commercial management from direction of policy.**—Before explaining how we think the purposes of Parliament may best be safeguarded, we must turn to the question to which we made brief allusion at the end of paragraph 191. The experience of many countries has shown the disadvantage of subjecting the administration of State-owned railways to the close and detailed scrutiny of a popular legislature, which concerns itself not only with broad questions of policy but also with administrative practice in all its ramifications. Under the present constitution, the legislature can exert considerable influence on the railway administration, and the dangers to be apprehended are already becoming evident. We can find no reason for thinking that the difficulties in India would be less than they have been found elsewhere, and we have no doubt that a continuance of the present system, under which the railways are directly administered by a branch of the executive Government, would, as soon as the legislature was in a position to assert its authority, develop tendencies leading directly to inefficiency and ultimately endangering the financial results of railway working. The member of an official Government not responsible to the legislature is in a position to resist these tendencies when they threaten to work serious harm, but when a member or minister must work in harmony with the legislature, if he is to retain his position, the pressure may become irresistible. It seems to us clear that there can be no material change in the control of railway policy in railway matters, until a system of administration has been set up which, while leaving to Government and the legislature the control of broad questions of policy, would locate the commercial management elsewhere.

A change in the system of administration seems to us necessary for another reason. The solvency of the Indian railway system and its efficient working are matters in which Parliament is interested both on financial and military grounds, but it does not seem to us practicable to secure these interests by attempting to control the day to day administration of the department. If an elected member of the Government replaced the present official member and became responsible for the commercial management of the railways as well as for the direction of policy, he might often be led, under pressure from the legislature, to initiate action which the agents of Parliament felt to be dangerous both to solvency and efficiency. They would then be faced by the choice between two alternatives. On the one hand frequent interference would be most prejudicial to the smooth working of the administration, while on the other continued acquiescence

would tend to render nugatory the powers which Parliament desired to retain. In these circumstances, we are forced to the conclusion that, if the purposes of Parliament are to be secured, this can be done only by modifying the system of administration, and not by an attempt at detailed control, which would be foredoomed to failure.

194. **Proposed statutory railway authority.**—We can describe the scheme which we contemplate only in the broadest outline. An authority for the administration of the railways should, we think, be set up by Statute. The Act would, of course, provide for the constitution and powers of the authority, and for the powers of control to be reserved to the Government of India. From the outset the authority should include Indian members. It would, we think, be desirable to make statutory provision for the general principles in accordance with which the railways should be administered, especially on the financial side, as for example, the manner in which the allocations for depreciation should be calculated, the constitution of the reserve fund and the purposes for which it should be used, and the amount of the contribution to general revenues. The control of policy in all important matters would remain with the Government of India and the central legislature, but it would be important to leave the statutory authority free to act without interference in the detailed arrangements it might make to carry out the policies laid down. Much will depend on the precision with which from the outset the powers to be exercised respectively by the authority and by the Government of India can be defined. But we cannot attempt at this stage to indicate what these powers should be. The question requires full investigation in order that the largest possible advantage may be derived from the experience of other countries where the State management of railways has led to difficulties.

195. **Necessity for enquiry.**—It will be obvious that it would be impossible to devise a satisfactory scheme of administration without a detailed enquiry by a committee or commission. Such an enquiry should, we think, be instituted as soon as possible. It would be the duty of the investigating body to make recommendations as to the manner in which the authority should be constituted, the powers it should exercise, the matters for which provision should be made in the Act setting up the authority, the control to be reserved to the Government of India, and the powers to be reserved to the Secretary of State in order to safeguard the purposes of Parliament. A complete enumeration of the matters to be examined we cannot of course attempt.

but they should certainly include the subjects specified in paragraph 192 above. There is one other matter of great importance. The existence in India, side by side, of State-owned and managed railways and railways owned by the State but managed by sterling companies domiciled in England, makes it peculiarly difficult to devise a satisfactory scheme for setting up a statutory railway authority for the administration of the railways. The contracts of the company-managed railways are with the Secretary of State, and though the Government of India exercises by delegation many of the powers reserved by the contracts to the Secretary of State, the ultimate control rests entirely in his hands, and the companies, by reason of their domicile, have direct access to him. It will be necessary for those making the enquiry to examine the question closely, and to consider how far the powers of the Secretary of State under the contracts should be exercised by the statutory railway authority, and in what matters the Secretary of State himself should reserve control. Their task will be extremely complex and difficult, but we have no doubt that the difficulties must be faced. It is our desire to see the direction of railway policy placed in the hands of popular ministers, but it seems to us an indispensable preliminary that a system of administration should first be established, which will provide for the efficient commercial management of the railways, and will also to a large extent safeguard the purposes of Parliament and avoid the necessity for detailed control.

196. **Method of legislation.**—Before any scheme for establishing a statutory authority to administer the railways is adopted, it would be necessary that Indian opinion should have full opportunity of expression, and any commission or committee which may be set up to consider the question should of course include representatives of Indian opinion as well as the necessary financial and railway experts. These enquiries must take time, and since it is desirable that the new system of administration should be ready to function by the date on which the new constitution comes into force, it is evident that special steps will be necessary in order to expedite the procedure. We should propose that, following the South African precedent, provision should be made in the constitution for the establishment of the railway authority by the insertion of a section in the Government of India Act, the detailed provisions necessary being included in rules made under the Act. These rules might be subject to modification by the Indian legislature after the lapse of a sufficient period to enable the new authority to establish its position and all concerned to gain experience of the working of the new system.

EXTERNAL AFFAIRS.

197. In the immediately preceding sections we have been concerned to develop our suggestions for the general structure of government at the centre, according as they have application to particular departments. We now turn to India's external relations in which several departments are concerned. The problems which arise have not fallen within the scope of the proposals of the Indian Statutory Commission, perhaps because no definite constitutional provisions appeared to be required in the structure which they contemplate. But the demand of Indian opinion, which we have described as directed to obtain self-government at home and national recognition abroad, leads us to consider to what extent the central executive which we contemplate might be concerned with the external relations of India with the other parts of the Empire and with foreign countries.

The existing position has been described in the memorandum which we submitted to the Indian Statutory Commission on the status and position of India in the British Empire and in the India Office memorandum on the international status of India. It is beyond doubt that there has so far been no delegation of authority to the Government of India in regard to external matters. As regards commercial agreements with foreign countries she has not the power which the Dominions have to enter into direct negotiations. The Government of India Act restricts the power of the Governor General in Council to make political treaties and forbids the Indian legislature, without the previous sanction of the Governor General, to legislate regarding the relations of Government with foreign Princes or States. We do not contemplate that in present circumstances the Government of India could have a decisive concern with those foreign relations which closely overlie the right to make war and peace. On first class questions of foreign and Imperial policy independent action by India is not yet within the realm of practical politics. India is indeed more continuously and practically concerned with foreign policy particularly in the Middle East than any of the self-governing Dominions. But whatever may be the degree of consultation with the Government of India, and whatever the agency functions which that Government may perform, the decisions must still remain with His Majesty's Government. Nevertheless, there is a large range of external relations which may conveniently be so classed in distinction from foreign affairs, and in which we see scope for an increasing recognition of the individuality of India among the nations of the world. It may well be that if the purposes of Parliament are defined, as we propose, the Government of India may enjoy considerable liberty in

matters such as commercial treaties, and the treatment of Indians overseas. We make no precise proposals in this regard for, whether our relations be with countries within or outside the Empire, we consider that the functions of the Government of India must develop by agreement and convention rather than by the enactment of constitutional provision. It is by the growth of understandings and conventions and not by provisions of positive law that the Dominions have attained their present position. These are the lines on which India's authority over her own external affairs must grow. Such a development not only postulates an alteration in the constitution of the Government of India which would confer upon it a distinct individuality for domestic purposes, but is also its necessary complement if the aspirations of India for a recognition of its status at home and abroad are to be satisfied. The Indian Statutory Commission have taken the first step in this direction, by recommending that in future the Governor General, and not the Crown, should appoint the members of the central executive, and in earlier paragraphs we have sought to describe what appeared to us to be the implication of such a change. If, in addition, India by convention were authorized to negotiate and conclude agreements with other countries within the Empire and even with foreign nations her feet would be set firmly upon the path along which the Dominions have preceded her.

RELATIONS BETWEEN CENTRE AND PROVINCES.

198. **Principles of classification.**—Before we leave the discussion of constitutional machinery in the provincial and central spheres, it will be convenient to say something upon the degree and method of adjustment that their mutual relations are likely to require. The Indian Statutory Commission conclude* their chapter on the relations between the centre and provinces, with a consideration of the distribution of administrative responsibility. In an earlier chapter on the provincial legislature, they state† their conclusions regarding the distribution of subjects of legislation between the central and the provincial legislatures. Sir Walter Layton's scheme similarly makes a distribution in the financial field. It will be convenient if we deal in one place with these questions of jurisdiction, and with the further question of how far provincial jurisdictions may be subordinate to or correlated with central authority. We are here in a field within which final dispositions cannot now

*Volume II, para. 190. †Volume II, para. 96.

be made. The ultimate form of the constitution cannot yet be settled, or even be predicted with confidence. We need not, therefore, on merely theoretical grounds radically disturb arrangements which have in the past proved satisfactory. "It is, nevertheless", as the Commission observe,* "important to devise the immediate structure in such a way as to avoid placing any unnecessary obstacles in the way of any natural future developments". Considerations of that nature, we presume, led the Commission to leave intact, save for a few matters of detail, the existing distribution of legislative and administrative authority, and to maintain,† as we understand them to intend, the present practice of deciding such questions by rule. We presume also that the Commission do not accept the proposal that "residuary functions" should be provincial. In our view it is not improbable that the ultimate solution of the problem of jurisdictions may be the provincialization of residuary functions, but we do not feel sure that the conditions are yet prepared for a decision of this very important point in the future federal constitution of India. Two local Governments have advocated that residuary powers should rest with the provinces and not with the centre, and apparently contemplate that a final and rigid classification of that nature should be made. One of our number would prefer to put that arrangement in a somewhat more elastic form, making statutory provision that any matter which is not already specified under the existing rules, should be assumed to fall within the jurisdiction of the local Government, and that in case it is claimed to be within the jurisdiction of the central Government, the matter should be decided by the Governor General. It is felt that, in view of the grant of autonomy to provinces and the desire to let provinces develop on autonomous and federal lines, this is the natural course to adopt. It does not in any way commit the centre to any particular constitution in future, while it enables the central Government to bring the matter within its own jurisdiction if it really finds it necessary to do so. Others, however, feel that so grave a decision cannot be taken at once. In their view it would be premature to entrust to local Governments, now to be equipped with untried machinery, all functions of government other than those specifically assigned to the central Government. Such a decision could be taken only on theoretical grounds and might have inconvenient consequences. It might, for instance, be argued that, if the functions of the central Government alone were exhaustively

*Volume II, para. 180. †Volume II, para. 190.

prescribed, the onus of proving that any action taken was *intra vires* would rest on it alone. Such a position might derogate from the vigour of central administration, and might have the effect of impairing the liberty of the Governor General to be the interpreter of this portion of the constitution. It seems probable that a scheme of exclusive jurisdictions could not be worked until the interpretation of the constitution is entrusted almost entirely to judicial authority, and for that development, other objections apart, conditions are far from ripe. The question is at present largely one of status which may await decision till the new responsible Governments in provinces have proved themselves. So far as it is a matter of efficiency of government, the present classification appears to us, as it appeared to the Commission, to be generally satisfactory, and we hesitate to decide now that functions, which Government in future may have to assume but cannot at present foresee, should be provincial. We prefer to maintain the freedom which the Devolution rules now afford, to extend the provincial field as new activities of government develop rather than to be driven to devise means of assuming these activities to the central Government, as occasion later may arise, from among undefined jurisdictions allotted on general grounds to provinces.

Holding these views, we are in general agreement with what we take to be the recommendation of the Commission that the classification of subjects should continue to be regulated by rule. We recognize that* " changes in the rules may be necessary from time to time ", and we see in that necessity good ground for avoiding the rigidity of statutory enactment.

199. **Legislative jurisdictions.**—Legislative jurisdictions must indeed rest on enactment, but we share the strong desire of the Commission† " to see maintained the provisions of the existing Act ". These provisions establish a certain concurrence of jurisdictions, kept apart by a necessity imposed on both central and provincial authorities of obtaining the previous sanction of the Governor General, before the classification of subjects made by rule is transgressed. In effect, they protect legislation, provincial or central, from undue challenge of its validity, but provide for selection of the forum in which proposals may be debated and enacted. The Commission find these provisions to be " ingenious and effective ". We believe them to be well-suited to the conditions of the country, and to have proved generally acceptable.

---

*Volume II, para. 190. †Volume II, para. 96.

It is, however, possible to attack them on the grounds that the classification of subjects requires revision, and that the machinery of previous sanction is capable of improvement. In the first regard, the Commission reject* "any alteration of the law which would restrict the range of the legislative power of the centre". They look rather to a freer use of the Governor General's power to permit provincial legislatures to undertake legislation on subjects technically central, and to a self-denying practice whereby the central legislature would make its enactments on such matters as social and religious customs adoptive or enabling. We think that these are lines which practice may be expected and should be encouraged to pursue. But we observe that two local Governments would make more rigid provision. The Government of Madras† would remove it from the power of the central legislature to legislate for matters which concern one province alone. The suggestion does not, so far as we are aware, proceed on any ground of complaint in the past, and we are reluctant to introduce into an already intricate system complications which necessity does not require. There is much in the suggestion as made which we could not accept. We could not accept it as a denial to the central legislature of a right to legislate on its own subjects of administration, if necessary, province by province, or, for instance, for individual ports or universities. Nor could we at once agree that certain provincial subjects should not be "subject to legislation by the Indian legislature" as they are at present. But if the Government of Madras desire that the central legislature should not legislate for provincial subjects, whose administration has no extra-provincial effects, we would expect that the result of such a provision would be little different from that produced by the present provisions for previous sanction to central legislation.

The suggestion of the Government of the United Provinces is of the nature of a check to be operated at pleasure by the local legislature. It is proposed that the local legislature should be empowered to require the central legislature to give to its legislation, affecting social and religious usages, an enabling form. It would be for the Governor General to decide when such a power became operative, by declaring whether the proposed legislation actually affected social and religious usages or not. We are in sympathy, as were the Commission, with the desire that amendments of social and religious usage should be left increasingly to local legislatures. But we would not readily agree that all amendments

*Volume II, para. 155. †Madras letter, para. 37.

should necessarily be so left, nor that the mechanism to secure provincial interests should be a provincial power of control over the centre. Measures of this kind would require the previous sanction of the Governor General before introduction into the Legislative Assembly, and are not now in practice taken into consideration till local Governments have been fully consulted. It would, we think, be adequate if a practice were established that such consultation invariably preceded the grant of previous sanction. But we would see inconvenience in a provincial power to revise the grant of previous sanction, or to sit in consideration of a measure under discussion in the Assembly, and to intervene at any stage, even the latest, of that discussion. We would ourselves trust to the recommendations, which the Commission have made, to secure due consideration of provincial interests.

The second ground on which the present system may be criticized is that the necessity for obtaining previous sanction to provincial legislation causes inconvenience and delay. Criticisms of this nature were made in the earlier period of the reformed régime, when the operation of the law of sanction was attended with some friction. That friction is now largely a thing of the past, and it is questionable whether any substantial practical benefit would ensue from a modification of the existing provisions. Nevertheless we would accept the suggestion of the Government of Bombay*, whereby a discretion would be taken to mitigate by rule the rigidity of the present law.

200. **Administrative and financial jurisdictions.**—The present distribution of administrative responsibility is commended by the Commission as generally satisfactory. We agree, and find support for the same conclusion in the views which the provincial Governments have expressed. We await the publication of the report of Mr. Whitley's Commission before submitting our recommendations for the distribution of functions in regard to industrial matters. The more particular recommendation of the Indian Statutory Commission in regard to the Criminal Intelligence Department is opposed by the Governments of Bengal, the United Provinces, and Assam. The Commission recommend that the classification of police as a subject of provincial administration should be accompanied by a discretion in the Governor General in Council to determine conditions regarding the organization of a provincial Criminal Intelligence Department. The Commission rightly regard the matter as important. An efficient intelligence service will depend on

*Bombay letter, para. 6, section 8.

co-operation between local Governments and on co-ordination by the central agency. But the Criminal Intelligence Department organization must be part of the regular police administration of the province, as the Government of Bengal point out, and little practical value would attach to a power to impose control over only one branch of a unified machinery of police administration. The recommendation of the Commission, however, is in effect permissive, and we are prepared to accept it on that basis.

In earlier paragraphs of this despatch we have dealt in detail with the proposals of the Indian Statutory Commission regarding provincial finance. These matters also we have considered in the light of the principles of classification which we have just described. We would continue the existing practice by which financial authority is distributed by statutory rule, and we would retain residuary powers of taxation at the centre. These appear to us to be wise accompaniments of the entirely novel arrangements proposed by the Commission.

201. **Control.**—Turning to the questions of control, we find ourselves in complete accord with the recommendation of the Commission that Governors in the use of their special and emergency powers should be supervised by the Governor General and not by the Governor General in Council. These powers are exercised in responsibility to Parliament, and control of them cannot appropriately be exercised through an authority in close relations with a popular central legislature. It is on that ground rather than on any ground of the ultimate form of federation that we would employ only parliamentary channels of control over Governors.

We approach the Commission's recommendations* relating to " the normal powers of the centre over the provincial Governments " from the points of view of the scope of these powers and the manner of their exercise. The first of the eight categories framed by the Commission seems to us to be inevitable not only because central administration is vital, but also because a central Government without self-sufficient central agencies, must be in a position to secure necessary action in provinces. The provision has indeed the sanction of usage, and is not objected to by any provincial Government. The second category is drawn in wider language than the corresponding category in Devolution rule 49. The Government of Madras object to it on the ground that it gives the central Government too wide a measure of control. They would maintain the existing rule which provides only for inter-provincial disputes. The Government of the United

*Volume II, para. 182.

Provinces would accept* it only on " the understanding that the Government of India will be restricted to use their powers principally for the purpose of collecting information, giving advice, and settling a common policy, and not for the purpose of interfering in the actual details of administration in any province ". The criticism of the Government of the United Provinces appears to us to contain the answer to the objection of the Government of Madras. It is because, in many matters which were not in dyarchic constitutions transferred, a common policy may need to be determined without waiting for disputes between provinces to arise, that a new definition of central control must be sought. We agree with the Commission that the definition must be in very broad terms. But we also agree with the Government of the United Provinces that means must be sought whereby provincial responsibilities may be safeguarded. The Government of the United Provinces would find these means in a definition of the spirit in which control will be exercised. The Commission have provided a check in the personal and entire discretion of the Governor General to decide, in any given instance, the scope of control. We ourselves hope that that discretion, combined with the restrictions on the method of control which we shall presently suggest, will allay fears that the intervention of the central Government may be excessive.

No difficulty arises about the third category which is, however, not so much a matter of control as a distinct power which the centre must possess. In a preceding paragraph we have stated our views upon the fourth category regarding control of provincial borrowings. The fifth and sixth categories might, we think, well be treated in the chain of relations between the Secretary of State, the Governor General and the Governor, and should not be classed as matters within the superintendence, direction and control of the central Government. The proposals† of the Commission regarding security services confer on the Secretary of State a power to require provincial Governments to employ these services in such numbers and in such appointments as he thinks necessary. They also imply the power to exercise disciplinary authority. It might be convenient if the Secretary of State were to delegate to the Government of India suitable powers, possibly to the extent suggested* by the Government of the United Provinces. But we see no reason why this should be done by statute as the Commission appear

*U. P. letter, para. 47 (*ii*). †Volume II, para. 329.

to contemplate. The phrase* "safeguarding of Imperial interests" does not appear to us to be entirely free from obscurity, but we feel no doubt of the need for some such provision giving powers to the agents of Parliament.

The seventh and eighth categories appear to us to be more suitable for classification as central subjects than for expression as powers of control. If they were so classified the requisite power of control would flow from the first category. We recognize, however, that difficult questions arise, as they have arisen elsewhere, for instance in Canada, regarding the participation of provinces in decisions reached by the Government of India in external affairs. The subject is a difficult one, and its solution will probably be found through the operation of practice and convention. But whatever procedure may be approved for reaching decisions, and we recognize to the full the desirability of previous consultation with provinces, it is clear that the final authority must rest with the central Government, in whom must also reside power to make the decision effective.

We conceive of these powers being exercised, as central control is at present normally exercised, by way of consultation, advice and even remonstrance. If, however, the Government of India were unable by these methods to get its way, we would not confer upon it a further mandatory power, but would expect it to advise the Governor General to act in relations with the Governor. The chain of authority would be the Governor General's powers of supervision over the Governor, and the Governor's overriding powers over his Cabinet. The machinery of control which we have described seems to us to reconcile the claims of central and of provincial authority most conveniently. On the one hand, we do not desire to exclude the Assembly from discussion of matters which fall within the proper scope of the central executive. On the other, we see objection to placing a Governor or his ministers in the position of receiving orders from an executive in relations with the Assembly. In practice the necessity of obtaining the decision of the Governor General, before it can be held that provincial action affects the interests of some other part of India, will be an additional security that the provincial field is not unduly invaded by the powers of supervision.

202. **Co-operation and co-ordination.**—The recommendations of the Commission for co-operation between central and provincial Governments and for co-ordination of nation-building services do not, except in one other respect, involve

* Volume II, para. 182.

any new constitutional provisions. We have already accepted the suggestion* that it should be rendered constitutionally possible, under suitable restrictions, to assist provincial objects from central funds, and *vice versa*. "Co-operation",† say the Commission, "should be secured by the general goodwill of the Governments concerned, rather than by the imposition of specific central control". We agree, and although we recognize that the Commission also propose† that the central Government should "in future have a more authoritative position than it now enjoys, constitutionally, in the transferred sphere", we think that the restrictions placed on the second category of control will obviate danger of co-operation being secured, save in case of necessity, in any other way.

THE SERVICES.

203. **The Indian Civil Service and Indian Police Service.—Continuance of recruitment.**—The question of the steps to be taken in regard to those services which are still recruited by the Secretary of State on an all-India basis, is one of great importance for the future administration of the country and, we think, for the successful working of the new constitution which it is proposed to set up. The Statutory Commission have rightly said that the Indian Civil Service and the Indian Police Service stand in a class by themselves as the "security services", upon which depend the organization and direction of the general administrative system and the maintenance of law and order. The Commission recommend that these two services should remain on an all-India footing, and that recruitment for them should be made by the Secretary of State. The majority of the local Governments are very decidedly in favour of this recommendation, though within the Governments there are dissentient views. We ourselves have no hesitation in supporting the proposal of the Commission. It has been objected that a provincial Government cannot feel unhampered in the exercise of its authority, so long as it is not free to recruit all its services on its own terms and have the final voice in controlling them. The anomaly may be admitted, but it must at the same time be recognized that considerable risks will be taken if the direction of policy in all provincial subjects is transferred to popular Governments, and that, if simultaneously far-reaching changes are made in the administrative machine whose task it is to carry out policy, there is danger that the new system may start under a serious handicap. It is necessary to keep the administrative foundations sound, while the new

---

* *Volume II, para. 187. † Volume II, para. 184.

constitution is facing the difficulties which are likely to confront it at the start. Whether, after these have been surmounted, it will be desirable to continue the recruitment of the security services on the present basis is a question depending on conditions which cannot at present be foreseen.

Many of those who advocate the discontinuance of the present form of recruitment have no desire to destroy the existing organization. They recognize the value of the work the services may be expected to perform during the transition period, and would be prepared to face the temporary anomaly of retaining officers, who can look outside the province for the ultimate protection of their interests. But there is a large volume of opinion which argues that the existing body of officers, retaining their existing privileges and safeguards, will be sufficient to tide over the period while the new constitution is establishing itself, and that by the time they disappear their services will no longer be required. We think that those who hold these views do not take full account of the probable results of stopping recruitment. We believe that, as soon as it was announced that recruitment was stopped and that the all-India services as a whole were in effect being closed down, the existing numbers would dwindle far more rapidly than is desired. Nor would it be easy, if necessity arose, to resume recruitment with success after an interval, which would have broken the old connections and traditions. The discontinuance of recruitment would in effect amount to taking a final decision at a time when the conditions of the future are still unknown. For these reasons we hold that it is essential to continue recruitment to these services on the existing basis.

204. **The same.—Recruitment by the Secretary of State.**— It is generally agreed that a decision to continue recruitment for the security services involves the continuance of their recruitment by the Secretary of State. The justification for maintaining these services is that they furnish officers of a high standard to deal with matters, the efficient handling of which is a primary interest of the country. It is of the essence of the case that the services should be able to attract the best material available. As the Statutory Commission point out, an all-India service has a much wider field of choice than any provincial service, and the status and traditions attaching to it attract the best class of Indian candidates, while there can be no doubt that without the security which is afforded by the protection of the Secretary of State, British candidates of the present standard could not be obtained. It has indeed been suggested by the majority of the Bombay Government that, while these two services should be retained on an all-India

basis, they should be recruited not by the Secretary of State but through the central Public Service Commission, and that they should look for protection to the Government of India. Somewhat similar ideas are expressed in other quarters. We fear that this compromise does not really meet the difficulties that are felt on either side. On the one hand British candidates have for a long time attached great importance to the protection of the Secretary of State, the value of which has been proved by experience. The Government of India is for them a distant body, whose general attitude to the questions that may affect them is unknown. Its protection will not give them the same sense of assurance as they derive from the protection of the Secretary of State. On the other hand, so long as the services remain on an all-India basis and their pay and conditions are settled by a central authority, whether it be the Government of India or the Secretary of State, the objection that local Governments would be hampered in the exercise of their authority is not removed. We do not consider that any intermediate position between recruitment by the Secretary of State and provincialization is likely to prove satisfactory and, as we hold that the time has not come for provincialization, we have no hesitation in supporting the proposal that recruitment should be continued on an all-India basis by the Secretary of State and under the guarantee of his protection.

205. **The same.—Rates of Indianization.**—All local Governments agree that, if the security services are to continue on an all-India basis, the existing rates of Indianization, which were fixed on the recommendation of the Lee Commission, should be maintained. These rates are calculated to produce an equality between the numbers of Europeans and Indians in the Indian Civil Service by 1939 and in the Indian Police Service by 1949. We propose no change in these rates of Indianization, which are indeed as rapid as appear to us to be consistent with the retention of the character and traditions of the two services.

206. **The same.—Future reconsideration.**—We have indicated above our view that the continuance of recruitment for these two services must not be taken as implying an intention that they should be retained indefinitely. All local Governments are agreed that the matter should after some period be reconsidered in the light of conditions then existing. There is a considerable variety in the suggestions made as to the period after which reconsideration should take place. The Punjab Government have suggested the year 1949, when the process of bringing the number of Europeans and Indians to an equality in the Indian Police Service will have been com-

pleted. The Government of Bihar and Orissa suggest 1939, the year in which a similar process in the Indian Civil Service should have been accomplished. The Central Provinces Government suggest that reconsideration should take place when equality of Europeans and Indians in each service has been reached. We doubt whether at this stage it is necessary to take a definite decision on the point, particularly as it seems to us inevitable that, when the proportions contemplated by the Lee Commission have been attained, the future of each service must be fully reviewed.

207. **The Indian Forest Service and the Irrigation branch of the Indian Service of Engineers.**—The Statutory Commission did not reach any definite conclusion as to whether all-India recruitment should continue for the Irrigation branch of the Indian Service of Engineers and for the Indian Forest Service. None of the provincial Governments had recommended this course, but the Commission were so much impressed by the importance of the work these two services perform, that they felt the matter required further examination. Local Governments have again expressed their opinions in the light of the considerations brought out in the report of the Commission. They are, however, still unanimous that there is no necessity to continue recruitment for the Forest Service on an all-India basis, and, with the exception of the Governments of the Punjab and of Bombay, no local Government recommends that all-India recruitment should be continued for the Irrigation branch of the Indian Service of Engineers. In two provinces recruitment for the Indian Forest Service has already been terminated as the result of the Lee Commission's recommendations, and important as the work of the Forest Department is, we do not feel there is sufficient justification for continuing recruitment for the Indian Forest Service in the other provinces, contrary to the recommendations of the local Governments. It can only be for very special reasons, such as those which apply to the two security services, that recruitment by the Secretary of State can be justified for services which will be working under an autonomous provincial Government. In the case of the Irrigation service the considerations are perhaps more evenly balanced. The revenue derived from the great irrigation works in certain provinces is a vital element in provincial finance, and the irrigation system is one of the chief foundations of the economic prosperity and contentment of the people. The official members of the Punjab Government go so far as to say that the efficiency and initiative of the irrigation officer is a factor for internal stability, practically on a plane with that of the officer in the security services. It is easy to understand the anxiety expressed by the majority

of the Punjab Government on the reserved side to retain what they regard as an insurance against deterioration in a service of such vital importance to the prosperity and economic life of the province. The recommendation of the Bombay Government is also doubtless due to the fact that the whole future of Sind depends on the success of the Sukkur Barrage irrigation scheme, in which, moreover, a huge capital sum has been sunk. It would be rash lightly to disregard the views of the local Governments in a matter of such fundamental concern to them. At the same time, we are anxious that recruitment should not be continued under the guarantee of the Secretary of State unless the need for it is beyond all reasonable doubt. In all provinces, except the Punjab and Bombay, local Governments are prepared to take the risk of dispensing with recruitment for this service on an all-India basis, and we accept their views. We have not been able to reach a final conclusion in regard to the Punjab and Bombay. There would be obvious advantages, we think, if it were possible to retain an all-India service for dealing with the great schemes of irrigation of the Indus valley, particularly as they affect two different local administrations. On the other hand, due weight must be attached to public opinion, and it would seem, from the views recorded by the Revenue Member and the Minister for local self-government in the Punjab, that there is definite opposition to the continuance on existing lines of recruitment for the Irrigation service in the Punjab. If it were decided that recruitment should be maintained on an all-India basis for the Punjab and Bombay, it would be for further consideration whether this recruitment should be carried out by the Secretary of State, as recommended by the Punjab Government, or by the Public Service Commission, on behalf of the Government of India, as recommended by the Government of Bombay. Whatever may be the decision in regard to the Punjab and Bombay, we are agreed that in other provinces recruitment by the Secretary of State for the Irrigation branch of the Indian Service of Engineers should not be continued after the introduction of the new constitution.

208. **The central services.**—The Statutory Commission have made no reference to the position of the central services, which work under the Government of India. For the most part the control of these services has been vested by the recent civil services (classification, control and appeal) rules in the Government of India. But the Secretary of State in Council is still responsible for the recruitment and control of the Indian Political Department, the Indian Ecclesiastical Establishment, persons appointed outside India to the superior telegraph engineering and wireless

branches of the Indian Posts and Telegraphs Department and a few civilian officers holding posts which are paid from army estimates. He also recruits officers appointed outside India to the superior railway services, and controls the comparatively few officers holding the King's commission on the active list of the regular army and the Royal Indian Marine, who are employed in certain central services. We assume that the Statutory Commission intended that there should be no change in these respects. That is also our view, except in so far as recruitment for the superior telegraph engineering and wireless branches of the Indian Posts and Telegraphs Department is concerned. We do not think it is necessary that the Secretary of State should continue in future to carry on British recruitment for this service. Its cadre is small. British recruits are not likely to exceed on the average one in two years and the number may even be less, and we have no reason to doubt that the Government of India will be able, without the assistance of the Secretary of State, to obtain suitable British recruits in the numbers required.

209. **Safeguards and conditions of service.**—It is common ground that whatever may be the decision as to future recruitment of the all-India services, the officers at present in these services should be encouraged to remain, and should retain all their existing rights, safeguards and prospects. Further, as we explain later in our observations on the Council of India, we recommend that changes in the statutory rules affecting the services should be made in consultation with a body which represents service experience. One important factor in the retention of the existing officers of the all-India services is undoubtedly the right of premature retirement. This right is at present possessed by all officers in these services, except the more recent recruits of Asiatic domicile. Generally speaking, under existing orders, the option to retire prematurely extends only for twelve months after the transfer of power proposed by the Commission has taken place. All local Governments agree with the Statutory Commission that the right of premature retirement should be continued, without limit of time, to any officer who might under the present rules have so retired on the coming into force of the new constitution. We have no doubt that the extension of this privilege is essential. If an irrevocable choice is presented at a particular moment, there is a serious risk that a large number of valuable officers would decide to retire. The experience of the past has demonstrated clearly that officers are more likely to remain while the option of retirement is kept open.

The Commission recommend that those, who are recruited after the introduction of the new constitution, should enjoy

the same rights, privileges and safeguards as members recruited before the change, except in respect of the right of premature retirement. They do not consider it is reasonable that those who enter the services with full knowledge of the conditions should be granted this right. In principle we accept this view, but, in agreement with more than one local Government, we regard the matter as one that will have to be decided in accordance with the practical considerations of fact. If satisfactory recruits can be obtained without the grant of this privilege, there is no reason why it should be granted. But we do not think it would be wise to run the risk of losing the recruits required for the all-India Services, merely on this point of principle. It does not follow that it would be necessary to extend to new recruits the precise scheme which is open to existing members of the services. We think that the suggestion made by the United Provinces Government that rights of retirement should be offered after fixed periods of service, the earliest of such periods being twelve years, might well be considered, should the necessity for making this concession arise.

210. **Security of pensions, family pensions and provident funds.**—The replies of local Governments indicate marked uneasiness among members of the all-India services in regard to their pensions, family pensions and provident funds. On these questions we endorse the recommendation* made by the Indian Statutory Commission. They point out that they are not proposing any change which would bring pensions into jeopardy, but, following the Lee Commission, they recommend that, if any statutory change is made hereafter involving the transfer of the financial control in this regard now exercised by the Secretary of State in Council, adequate provision should at the same time be made for safeguarding service pensions. We assume that their recommendation was intended to include family pensions and provident funds. This is a matter to which we attach great importance, and we trust that an assurance on this point will be given by His Majesty's Government, and that it may be found possible to restate with reference to present conditions, in terms as explicit as may be, the principles set forth in paragraph 4 of Mr. Montagu's despatch No. 5-Public, dated the 9th February 1922. In the meantime we are examining, in connection with various memorials received from members of the services, the question whether it is practicable to supplement this assurance by measures which will give a greater sense of security to the services, and we propose to address you separately on this subject at an early date.

*Volume II, para. 332.

211. **Other recommendations.**—We accept in principle the proposals of the Commission in regard to the establishment of provincial Public Service Commissions. There are certain other matters of less importance on which we shall address you separately.

RELATIONS WITH THE STATES.

212. **The federation of all-India a distant ideal.**—The relations which should obtain between British India and the Indian States raise difficult questions immediate and remote, both of which have been discussed* by the Commission. We readily accept the ideal of an ultimate federation of all-India, and agree with the Commission that the Indian States and the provinces of British India preserve remarkable cultural affinities, and are slowly working out a common destiny. We recognize the geographical, economic and political unity of British India and the States, but we share the repugnance of the Commission to pronounce dogmatic conclusions. The ideal which has received general acceptance, and which we also accept, is† " some sort of federal arrangement ". Deep-seated difficulties arise from the heterogeneity of the units to be federally associated, and from the wide range of matters to be made subject to control from a common centre. The Commission remark that ultimate federation cannot follow any known pattern, and we doubt whether any advantage is to be derived from attempting now to sketch the ultimate form of future political association between British India and the States.

Federation might possibly be evolved on some such lines as have been followed in the Dominions or in federal countries elsewhere, but we refrain at this stage from following the Commission into an examination of the methods by which the end might be reached. The example of Canada has appealed to them, but the Commission go no further than to say that individual adhesion is a possible method of approach. We are ourselves by no means clear that adhesion to the legislature of British India holds out greater promise than the expansion and development of the Council for Greater India, and we hesitate to assume that the relations existing between the provinces of British India and the centre will not necessitate a permanent central legislature for British India, dealing with matters which are of concern to British India alone, and to which the States could not appropriately be admitted. We think that the way should be left open for the continued existence, if necessary, of the British India legislature for British India purposes, and for the possible creation of an

*Volume II, Part VII.

†Volume II, para. 228.

all-India legislature in which both the States and the provinces would be represented.

In short, the time has not yet come for a choice to be made. A federation of all-India is still a distant ideal, and the form which it will take cannot now be decided. The duty before us at this stage is to assist in arranging the preliminary setting and in removing obstacles from a still untrodden path. Without indulging in remote speculation, we think it more profitable and necessary to examine the concrete proposals which the Commission make for immediate action.

213. **Paramountcy.**—We have already intimated, in the course of our examination of the structure of the central executive, our acceptance of the Commission's suggestion that the exercise of paramountcy should no longer be a function of the Government of India. We propose now to discuss the suggestion in some detail.

At the outset we accept the important distinction made by the Statutory Commission between the exercise of paramountcy on the one hand and, on the other, the normal treatment of matters which are of common concern to the States and to British India. It is only in respect of the former that the Commission recommend that the Viceroy should be statutorily vested with the functions now exercised by the Government of India ; and the Princes themselves ask for nothing more. The object of the proposed transfer is not to change but to perpetuate the present location of responsibility with the agents of the Crown, and the need for it arises partly from the anticipated increase of the responsibility or responsiveness of the Governor General in Council to the British Indian legislature, and partly from the formulation of the ideal of a federated India. Whatever legal or constitutional arguments might be advanced to the contrary, it is in practice essential that the obligations of the Crown towards the Indian States should continue to be discharged through an agent whom the Crown is able fully to control. At the same time, as the Commission point out, it is in the last degree improbable that the States would ever assent to the idea of a federal association, whose democratically controlled executive could claim to exercise rights of paramountcy over themselves. Any invasions or limitations of the autonomy of the States must come not from the Government of British India, but from the representative of the British Crown, to whom alone the Princes admit allegiance.

We have anxiously considered whether the object as defined above could be achieved by any means less drastic than those advocated by the Indian States Committee and the Statutory Commission. Our opinion that there is no

satisfactory alternative is not entirely unanimous. One of us holds the view that the arrangement, under which the exercise of paramountcy is constitutionally vested in the Governor General in Council, should not be disturbed, except to the extent of providing that those members of the Governor General's Council, who may in future be responsible to the central legislature, should be specifically debarred from participation in the disposal of such business. In other words he considers that, in the event of the introduction of dyarchy into the central Government, all matters relating to paramountcy should be classified as 'reserved'. If, however, the central Government is to be unitary, subject to the reservation of overriding powers for the Governor General personally in certain matters, the exercise of paramountcy should, in his view, undoubtedly be a matter in which the Governor General should possess such powers subject only to the control of the Secretary of State. He further considers that, if his views as summarized above do not meet with acceptance by His Majesty's Government and if members of the Governor General's Council are to be relieved of all responsibility in regard to the functions of paramountcy, that responsibility should be vested in the Governor General rather than in the Viceroy. In urging this view (which for reasons explained below the remainder of us are unable to endorse) he is actuated by the fear that, if at some future date the offices of Viceroy and Governor General were to become distinct and to be held by two separate persons, baffling and undesirable complications might ensue. His general attitude towards the whole question is that the contemplated change involves a very drastic separation between British India and the States, which is calculated to render their eventual fusion more difficult than would otherwise be the case.

We realize that this latter view is held in considerably stronger form in other quarters also, and that there exists a suspicion that the vesting of the functions of paramountcy in the Viceroy must, and may even have been expressly designed to, hamper and delay the progress of India as a whole towards true autonomy. We doubt, however, whether this suspicion would be dispelled by the adoption of the compromise favoured by our colleague. The dyarchic arrangement which he contemplates would be at variance with our ideas as to the future constitution and functioning of the Governor General's Council, and could, at the best, be only a temporary makeshift which would avoid rather than solve the essential problem. The alternative proposal that the rights of the Princes should be safeguarded by the vesting of overriding powers in the Governor General is open to the objection

that it would afford the legislature a constitutional *locus standi* in a sphere which, as our colleague himself admits, ought to be reserved for Parliament and the Crown, and would create a position with wide possibilities of friction and misunderstanding. Finally, both alternatives would entirely fail to satisfy the Princes, whose hopes for the future are centred in the solution which we are advocating. We consider that that solution tends to unity rather than to dissidence. We regard it, in fact, as by no means inconceivable that the surrender of the functions of paramountcy to a democratically controlled Government of India would lead in no short space of time to open defiance of the latter, and perhaps even to hostilities. It may be argued that the Government of India is not yet democratically controlled, and that the change which we are advocating might well be postponed until that contingency has arisen. We would reply that we are satisfied that any such delay would be dangerous. The influence of the legislature upon the central Government is already sufficiently great to justify the misgivings which the States entertain. Nor is any one likely to argue that they are mistaken in anticipating that it will rapidly increase. So long as this constitutional question remains open it will be a focus of controversy and friction, and the postponement to some future time of a decision which we regard as inevitable will only increase the difficulty of its eventual application. If it is defended and enforced now on the grounds which we have described above, we trust that public opinion may be brought to realize that it is not so comprehensive or disturbing a measure as it has been represented in some quarters to be. In all matters, where British Indian interests are concerned, British India will, as at present, have full constitutional opportunities for expressing, and, with due regard to the rights of the States, enforcing her desires. And even in affairs internal to the States there will be nothing to prevent the Viceroy, if he so wishes, from obtaining the opinion of his Council in any matters which, by reason of their nature or intrinsic importance, seem to require scrutiny from the British Indian standpoint.

It will be observed that we have, in the foregoing observations, been at pains to use the term 'Viceroy' in preference to that of 'Governor General'. It is, in fact, our considered opinion that the Governor General should hereafter be appointed under the dual designation of Viceroy and Governor General, and that his functions in regard to the exercise of paramountcy should be statutorily vested in him under the former designation. The arguments on which this proposal is based, though in part sentimental, appear to us to be cogent. It is on the King

Emperor that the loyal sentiments of the Indian Princes are centred, and it is towards the Viceroy, as His Majesty's representative rather than as the Governor General of India, that they feel that respect and devotion which is so valuable a factor in our dealings with them.

214. **Matters of common concern.**—With regard to matters of common concern the Commission make three definite proposals, namely, that a list should be prepared of those matters which are of common concern to the States and to British India ; that there should be included in the preamble to any new Government of India Act a recital which would put on record the desire to develop that closer association between the Indian States and British India which is the motive force behind all discussions of an eventual federal union ; and that provision be made for the creation of a Council for Greater India for the purpose of joint consultation on matters of common concern included in the list.

We support these three suggestions, but make the following general observations. The list of matters of common concern is to include from the outset thirteen matters which cover a large portion of the range of the Government of India. Defence is a noticeable omission, presumably in accord with the Commission's recommendations to remove the administration of the army from the Government of India, and to constitute a committee on army affairs on which the States might be given representation. The list is to be included in a schedule to the Act and the matters included in it will require to be brought up for joint deliberation. The requirement of joint deliberation imposes a restriction upon the free action of the Government of India, but we take note that the list is to be made in consultation and by agreement.

We have no objection to a recital in the preamble which merely places on record a desire for closer co-operation in the future. But in the form given to the recital* in the report there is approval of the principle of joint deliberation on matters of common concern at the discretion of the States. We conceive that the form of the recital will be determined by the conclusions reached as to the nature and functions of the Council for Greater India. Representation on the Council may be regarded as participation in a mutual privilege, but the view may be taken that its creation imposes a constitutional limitation on the free action of the Government of British India. The implications of the recital proposed by the Commission are that while British India is given no discretion and must submit to discussion of its functions, so far

*Volume II, para. 236.

as they fall within the list of matters of common concern, for the States submission is optional. No Indian State need come within the scheme, unless it so desires.

215. **The Council for Greater India.**—The provision for the Council for Greater India is a statutory discretion in the Crown to create the Council for purposes of consultation. We have no particular comments to make on the suggested composition of the Council, or on the proportions proposed respectively for the representation of the States and of British India. We think it probable, however, that on practical grounds it might be necessary to increase its total membership to not less than 60, of whom about 20 might be representatives of the States. As to the scope of the functions of the Council, the power given to the Viceroy to certify from time to time such other matters as he may consider suitable for consideration by the Council introduces elasticity, but the demand might be made from the British India side that additions to the list should be made only by rule. We agree that the functions of the Council should be consultative only, but in some respects the consequential proposals* made by the Commission induce misgiving. Instead of reporting to the central legislature and to the Chamber of Princes, a more suitable arrangement might be that it should advise the Viceroy and Governor General. In the second place we are doubtful whether the Council should possess the administrative power of appointing committees of investigation and report. Lastly, since the Council is itself to be composed of mixed elements we are not entirely satisfied of the need of any provision for meetings of a joint committee drawn from the Council and from the central legislature.

These however are matters of detail susceptible of adjustment by discussion. In the meantime we repeat our general agreement with the Commission's suggestions. We regard them as a valuable contribution to current political thought on an exceedingly difficult problem, and we trust that they may attract support both from the Princes and from the representatives of British India at the Round Table Conference.

216. **Economic and financial relations.**—Before we leave the problem of relations with the States we take this opportunity to refer to developments outside the recommendations of the Commission. It is well known that for some years past the States have been claiming a share in the customs revenue of the Government of India. These claims were presented in

*Volume II, para. 237.

considerable detail before the Indian States Committee, which recommended that an expert committee should be appointed to enquire into the reasonable claims of the States, or groups of States, to a share in the customs revenue, as also into any reasonable claims under other heads, and at the same time investigate the adequacy of the contributions of the States to Imperial burdens. Subsequent to the publication of the report of the Indian States Committee, the claim of the States has developed into something wider and more comprehensive than a request for a share in the customs revenue of British India. They ask in effect for a survey of the whole field of their financial and economic relations with the Government of India.

In their report* the Indian States Committee rejected the contention of the Princes that the indirect taxation of their subjects by means of our customs tariff is *ultra vires* from the point of view of international law and partakes of the nature of a transit duty. Our own exhaustive examination of the claims put forward has failed to reveal any ground on which relief can be claimed as a matter of right, either under treaty obligations or from past practice ; and our broad conclusion has been that the question is but one aspect of the many-sided problem of the political evolution of India and of the future relations, especially the future financial relations, between the Government of India and the Indian States. We have, however, long been conscious that, from the point of view of equity, the operation of the customs tariff has provided the States, or at any rate some of the most important among them, with what they believe to be a grievance. There is the further consideration that for the reasons anticipated in Sir Walter Layton's scheme, the burdens imposed on the States through this indirect taxation of their subjects may become heavier in the near future.

217. **The need for a solution.**—Apart however from considerations of equity, there are now new arguments of even greater practical importance which in our view necessitate an early review of our financial relations with the Indian States. In the first place such a review seems to follow inevitably upon the proposal that the Viceroy and not the Governor General in Council should be the sole agent of the Crown for the exercise of paramountcy over the States. If this proposal is approved British India may maintain that its own legitimate revenues should not be called upon to defray the expenses of this new relationship. We anticipate therefore that it may become necessary to have a completely separate " political " budget directly financed, so far as may

*Para. 81.

be found possible, from the contributions of States and their subjects, which at present fall to British Indian revenues.

Secondly, though we are, as we have stated, in full agreement with that portion* of the Statutory Commission's report which recommends the creation of a Council for Greater India for the treatment, in a consultative capacity, of matters of all-India concern, we think that the consultations of such a Council would have much more reality and practical usefulness if the States had a definite financial interest in that portion of the agenda which relates to the indirect taxation of their subjects.

The third and most important consideration is that the natural and harmonious development of the financial and economic programme, suggested by the Statutory Commission for expanding the resources of British India, would be much more effectively pursued if the co-operation of the States could be assured. Sir Walter Layton has† expressed the opinion that, if his proposals are to succeed, " some means must be found of harmonizing financial policy in the two sections of the country ".

218. **The possibilities of conflict.**—In our view the requirements of the future will demand such a harmony not only in the sphere of finance and taxation, but also in such matters as legislation affecting the conditions of industry. For example unless the co-operation of the States can be secured, there is a real danger that the absence of restrictive Factory Acts may attract industries to the Indian States to the detriment of British India. In the sphere of finance and taxation the need for uniformity of practice between British India and the States is becoming increasingly important. There is the obvious case of the income-tax, in regard to which a disparity of rates may lead to a removal of business from British India, a danger which becomes greater as the rates of income-tax increase. Again the development of ports in certain maritime States has raised questions, which concern not only our sea customs revenues but also the conflicting interests of traders in various parts of India. In so far as the customs revenues are concerned, we have taken such action as appeared to us necessary and justifiable for the protection of our interests, but such measures cannot fail to be attended by friction, controversy, and administrative inconvenience, and we should greatly prefer an agreed settlement, which would remove all obstacles to the natural and harmonious development of India's communications by sea and land. Lastly, if we are in future to develop our financial resources

*Volume II, para. 237. †Volume II, para. 315.

by resort to new all-India excises of the nature contemplated by Sir Walter Layton, the co-operation of the States will be essential. This need can be easily established by a single illustration. If the manufacture of matches were to be permitted without excise restrictions in State territory, the consumption of untaxed matches in British India on a very large scale would inevitably follow, and no system of customs barriers could be developed on a sufficiently wide scale at a sufficiently reasonable cost to prevent that consequence.

219. **An economic union.**—We have given this brief statement of an impending problem in order to indicate that, when discussion turns on ways and means to bring about an association between British India and the States, the matters at issue are not academic. Important practical considerations are involved. The financial and economic issues already raised between the two component parts of Greater India necessitate early solution. We do not claim to have formed decided views. The whole question must inevitably be considered at the Round Table Conference, when representatives of the States and of British India will have equal opportunities of expressing themselves. We can at this stage do little more than put forward certain principles which appear to us likely to govern the case.

In the first place, there can be no diminution by the Government of their right to levy and retain customs duties on all goods imported at British India ports, even though destined for consumption in Indian States. But the Government of India can in our opinion properly agree to review the position on equitable grounds, for the reason that the customs revenue and import duties have in recent years come to bear a substantially different significance to that which they bore when the original treaties and arrangements with the States were settled.

Secondly, if consent be given to take into account considerations of equity in a review of the customs situation, it should be counterbalanced by a simultaneous review of the position as regards the States' contribution to the cost of defence and of other Imperial services, which relieve the States of expenditure or contribute directly or indirectly to their benefit. Financial investigations would therefore cover the whole field of claims by the States against British India revenues, and counterbalancing claims by British India against the States.

When the accounts of both sides have been drawn up, some States may be found to have a credit balance ; others may be found to be making less than a proportionate contribution to Imperial burdens. For this reason, no financial

settlement should be made with individual States that does not have regard to the entire account. Each settlement must be an integral part of a general settlement between British India and the States as a whole. Further, before any financial settlement be entered into, the States concerned should bind themselves to the adoption of a policy uniform with British India, in regard to such matters as commercial and industrial legislation, the level of their excise duties, and the rate of their income-tax. The proceeds of such uniform taxation, including customs duties collected by maritime States at their ports, should be credited into a common pool with a view to its ultimate distribution on such equitable principle as may be agreed upon, and there should be full facilities for inspection by an all-India inspectorate staff, in the recruitment and control of which the States would have a share.

In no case would retrospective effect be given to any financial settlement or part thereof.

220. **A settlement by agreement.**—We set out these broad principles for general consideration. We recognize that controversial issues are raised, but the problem is pressing, and it is essential that such solution as may be reached should carry conviction on both sides, in the States and in British India, that the interests of neither have been ignored or sacrificed. It seems to us that the best occasion for reaching an agreement satisfying this condition will be afforded by the forthcoming Round Table Conference, and we recommend that every advantage should be taken of the opportunity. If there were to be complete agreement as regards principles, it would remain only in the case of each State to translate those principles into terms of a financial settlement. A second alternative, the possibility of which we do not exclude, would be an agreement between the representatives of the States on the one side and of British India on the other, that the whole question of the future financial and economic relations should be referred to an arbitral tribunal, whose decision would be accepted as binding on both parties.

THE HOME GOVERNMENT.

221. **The executive authority of the Secretary of State.**—In an earlier portion of this despatch we have described the constitutional importance attaching to the recommendation made by the Indian Statutory Commission that the members of the central Cabinet should be appointed by the Governor General. We have sought to show in what way such an arrangement will affect the relations of the executive with the legislature, and to suggest how the recommendations of the Indian Statutory Commission might be developed into a working partnership in administration in India. When

we proceed to consider more closely how a central Cabinet resting on such a basis should be related to authority in England, we think that the general tenor of the recommendations of the Indian Statutory Commission involves that the Secretary of State shall in future exercise over the Government of India only a power of superintendence, direction and control. We consider it of some importance to place beyond possibility of doubt a position which to some minds may appear obvious, for the "doctrine of agency" has at times been strongly pressed. In earlier years this doctrine encouraged a tendency to bring the Viceroy into the same relation to the Secretary of State as that in which an Ambassador or Minister at a foreign court stands to the Secretary of State for Foreign Affairs, and it was relied upon by Lord Morley in asserting for the Secretary of State the extreme power of giving direct orders to every officer in India from the Governor General to the humblest servant of Government in the districts.

In future, according to the recommendations of the Indian Statutory Commission, the power to appoint the members of his Cabinet, alike in provinces and at the centre, would rest with the head of the administration. This appears to involve that the Governor General and Governors would conduct the administration with advice from members of their Cabinets and under the control, greater or less, of the Crown. Provincial Cabinets would, save for the overriding powers of Governors, and a limited superintendence from the centre, be subject only to control by provincial legislatures. As regards the centre, "*the executive" say the Commission, "will to an increasing degree be responsive to the will of the federal representatives". Such an arrangement in our view would seem to preclude the retention by the Secretary of State of a primary power of administration devolved upon him from the Crown. The future constitutional position in the presence of executive Governments so constituted would naturally be that the administration would become vested in the Crown, and exercisable at the centre by the Governor General and in provinces by the Governor, but subject to such superintendence and control on behalf of the Crown as might in each case be found appropriate. The scope of the authority of the Secretary of State would then be two-fold. First, he would be the adviser of the Crown, or, if devolution were made to him, the first executive authority for matters removed from the jurisdiction of the Government of India. For instance, the original authority for the making of treaties, the exercise of

*Volume II, para. 179.

paramountcy, the contraction of loans of particular kinds, and the recruitment of certain services might vest in the Secretary of State. But his duties of this nature would be limited to the particular matters, specifically removed from the general devolution of authority from the Crown to the Governor General or the Governor. Second, the Secretary of State would exercise powers of superintendence, direction and control over heads of administrations, corresponding to the obligations laid upon them.

222. **The Secretary of State's powers of superintendence, direction and control.**—We have already explained how our conviction of the necessity for a partnership between Britain and India has led us to the conclusion that Parliament should consent to specify the purposes for which alone it will assert its authority in the administration of India. We are accordingly unable to accept what we take to be implicit in the *recommendations of the Indian Statutory Commission, namely, that the Governor General in Council must in terms continue to be subject to the undefined control of the Secretary of State, but that in practice the intervention of the Secretary of State should depend very largely upon the attitude of Parliament. In regard to provincial administration we agree that †" it should no longer be open to the Secretary of State to issue orders on matters which are of no concern outside the province itself, other than the limited class in regard to which special powers are reserved to the Governor ". We agree also that at the centre the personal powers of the Governor General should be placed under the unrestricted control of the Crown. But it is implicit in our recommendation for a specification of the purposes of Parliament that both the Governor General's special powers, and also the Secretary of State's powers of superintendence, direction and control, should have no other extension than these purposes.

223. **The power of appropriation.**—The disposition of executive authority, which we have just suggested, has its natural parallel in the field of finance. It implies a corresponding disposition of powers of appropriation. At present the revenues of India vest in the Crown. In theory all appropriation is subject to the control of the Secretary of State in Council and requires the concurrence of the Council of India. But rule and practice have brought about a wide departure from the theoretical position. In regard to voted expenditure the power of appropriation has passed to the legislatures in India and to the Governors and the Governor

*Volume II, para. 351. †Volume II, para. 350.

General, and in regard to non-voted expenditure is exercised by the Governments in India. Provincial Governments, in consequence of the devolution of authority and the allocation of revenues made to them, do not require the previous sanction of the Secretary of State or of the Council of India before approaching their legislative councils for voted supply, or appropriating moneys for non-voted expenditure. The Government of India, however, are required to submit their annual proposals for appropriation for the previous sanction of the Secretary of State and the Council of India, receiving for non-voted expenditure authority to make the necessary appropriation, and for voted expenditure what is, in effect, permission to obtain what supply they can from the Assembly. This position we regard as administratively neither necessary nor convenient. If the Governor General is to be made by statute primarily responsible for His Majesty's Government in India with advice from members of a Cabinet which he will himself select, the power of appropriation should in the first instance and by statute lie with him and his legislature. This necessity will be the more apparent if Parliament accept the propriety and wisdom of defining the purposes for which it will control the Government of India. For if the interest of the Secretary of State is limited to the fulfilment of these purposes, it would seem unnecessary that he should concern himself with the details of the Indian budget, or that the whole annual scheme of Indian finance should be subjected to close and meticulous control.

224. **Method of specification of the powers of the Secretary of State.**—We have already described in this despatch certain purposes which Parliament will be interested to secure. It is not possible in the circumstances in which this despatch is written to explore the whole field. The formulation of precise and exhaustive prescriptions is a matter to be undertaken at greater leisure. But our conception of partnership demands that Parliamentary purposes should be capable of definition. Our argument would, therefore, be incomplete if we did not show that, as we consider desirable, specification of the functions of the Secretary of State is likely to prove feasible, and if we gave no indication of lines on which it might proceed. We gather that the Indian Statutory Commission, although like ourselves they were unable to pursue a detailed enquiry, regarded it as not impossible that such a definition should be made. For they make the following remarks: *"It may be that fields of administration can be mapped out, in which it can be said

* Volume II, para. 352.

with confidence that no question will arise upon which His Majesty's Government would feel bound to reserve to itself the final decision, notwithstanding the agreement of the Government of India and the Indian legislature. We cannot ourselves suggest one and are, therefore, unable to recommend any extension of the principles of the 'fiscal convention' ". We ourselves approach the problem from a somewhat different angle, having regard rather to general purposes, which must be secured by Parliament in whatever field of administration they arise, than to particular subjects which can be made immune from or liable to Parliamentary intervention. But we recognize that a demarcation which seeks to give to Indian administration the fullest reasonable degree of freedom from external control, must, even if it starts from broad principles, descend to the consideration of particular functions. The distinction will be perhaps more clear if we consider the methods by which the necessary specification could be made. Three methods have suggested themselves to us, namely positive enactment, statutory rules, and some form of declaration, possibly made by the Secretary of State and accepted by Parliament. The method of positive enactment appears to us to be unsuitable, because our aim is to define the purposes of intervention in such a way that they may be capable of changing as circumstances permit in the direction of greater freedom in the Government of India. The method of declaration may be appropriate for purposes of illustration, and in order to set forth the spirit which will animate the operation of formal provisions. But we would not expect it by itself to prove sufficient, for the differentiation which we seek must, we anticipate, be placed ultimately on a statutory basis, if Indian opinion is to have adequate assurance. Such a basis might, as in the past, be found in statutory rules. We do not contemplate that these rules would effect a tripartite classification of subjects, adding to the existing classification of functions as central and provincial a third category of Parliamentary subjects. The existing classification proceeds from the assumption that all functions of government, with certain exceptions, are exercised by authorities in India, and arranges these functions in central and provincial compartments. What we would seek to do is, while respecting that almost exhaustive allocation of functions to authority in India, to define the objects for which Parliamentary intervention in central administration may be practised, whatever function of government may be concerned. It would seem to follow that an appropriate method of specification would be to draw the statutory rules in a broad and general form with reference to the purposes of intervention, and if it were found necessary to bring them into close relation to the classified functions of

government to amplify the rules by some subsidiary declaration, illustrating or it might be limiting the application of the several rules to the several functions.

225. **Statutory rules.**—A precedent for what we seek may be found in the existing rules under section 19A of the Government of India Act, relaxing the powers of the Secretary of State to control the administration of transferred subjects in provinces. These rules are broad definitions of certain purposes of control, and, so far as we are aware, their translation into detailed practice has been attended with little difficulty. In the central field, however, which we are now considering, the purposes to be secured are more important and more pervasive of the administration. We have given such consideration as time permitted to an exploration of the ground to be covered, and in the portions of this despatch dealing with central finance and with commerce we have explained in some detail the views which we entertain. We are not, however, in a position to draft the rules which we would regard as suitable. We can at present do no more than suggest categories of interests in the hope that our object at this stage, namely, to show that specification is likely to prove feasible, will be thereby attained. To that end, and with a desire to assist the fuller investigation which we recommend, we suggest the following :—

(1) the administration of subjects entrusted to the Secretary of State ;

(2) the defence of India against external aggression ;

(3) Imperial interests including foreign affairs ;

(4) questions arising between India and other parts of the British Empire ;

(5) international obligations, or any obligation arising from an arrangement within the Empire, to which India is a party, or which is otherwise binding upon India ;

(6) the conditions of internal security ;

(7) the financial stability and credit of India, and the fulfilment of existing obligations ;

(8) the protection of minorities ;

(9) the avoidance of unfair economic and commercial discrimination ;

(10) the rights of services recruited by the Secretary of State ;

(11) the maintenance of the constitution.

226. **Interpretation of the rules.**—What degree of elaboration the necessary rules would require in order to cor-

relate them to particular subjects would to some extent depend on the assurances which particular interests such as minorities and established commerce and industry might reasonably require, and on the extent to which in practice it might be found desirable to have a more detailed exposition of Parliamentary control. We ourselves would prefer that just as the rules under section 19A were in provinces translated into administrative practice without difficulty, so the broad rules we propose for the centre should be left to their natural operation without any formal elaboration. But if such elaboration were found necessary, for instance, in the fields of finance and of commerce, we think that a method of description and illustration would be appropriate. We would deprecate anything of the nature of codification, for it would in our view be unfortunate if any document in elaboration of the rules came to be looked upon as a digest of powers which ordinarily must be exercised. The road to discontinuance of control is best laid open by stopping short at rules broadly expressed, and by giving to any subsidiary definition, should such be necessary, a permissive form.

227. **The Council of India as an independent authority.—Its financial veto.**—If we have succeeded in establishing the true constitutional position that authority of administration and appropriation may be directly devolved upon the Governor General, and that the Secretary of State would then occupy a position from which he may exercise specified control, it remains to enquire whether there is room for a third statutory independent authority. There is a strong body of opinion in India which regards the Council of India as superfluous, or even as an obstacle to political advance. Those who hold these views might fairly maintain that the principles on which our proposals are based preclude the retention of the Council. For, they would argue, where Parliamentary purposes were involved the Council of India would be out of place, and where they were not involved, it would not be necessary, since the Indian legislature would be in a position to protect itself.

The functions of the Council fall into two classes. It tenders advice to the Secretary of State. In certain matters it grants or withholds assent without which action cannot be taken. We shall deal presently with the Council of India as an advisory body. For the moment we are concerned with its position as an authority independent of Parliament and the Government of India, exercising a veto over expenditure and over variations in conditions of service. We agree with the Indian Statutory Commission in considering the financial veto of the Council to be of moment only in regard to non-

votable expenditure, and for the protection of the interests of India against claims by departments of the Home Government. We, therefore, see no justification for the retention of the veto in regard to financial proposals emanating from the Government of India, and would not favour its continuance except for use on occasions when Parliament proposes to intervene in Indian administration. There is force in the observation of the Statutory Commission that, if military expenditure were determined by agreement at a fixed sum, there would be little advantage in retaining the veto. We have elsewhere proposed that supply for defence should be fixed and determined at intervals by a special procedure. If that course were adopted, there might be little necessity for retaining the veto of Council. But whatever the decision may be regarding appropriations for defence, we would prefer that the principle of arbitration should be established, and that differences between His Majesty's Government and the Government of India in regard to non-votable expenditure should be settled by negotiation and, if necessary, by adjudication. We are, therefore, inclined to the view that the future constitution would leave little room for the Council of India as an independent authority with power over appropriations, and we anticipate that any such differences of opinion as might arise between the two Governments could be settled in a manner more consonant with the freedom, which the Government of India may suitably enjoy.

228. **The same.—Its control of service conditions.**—The second function of the Council of India as an independent authority is its control over the rules governing the services in India. In this regard we observe, first, that according to the proposals of the Commission the scope of this function will in future be much restricted. In the second place the concern of the Council of India is with rules altering conditions of service, and not with the application of these rules to individual cases. Nevertheless, the protection which the functions assigned to the Council of India have afforded in the past has been highly valued by the services, and the maintenance of some protection of this kind may considerably affect the flow of recruitment and the peace of mind of those still in service in India. We consider that the Secretary of State will continue to require advice in regard to the services and that that advice must be of a kind which will command service confidence. We do not, however, feel convinced that protection must be given by the existing methods or that merely in the interests of a comparatively small number of services the Council of India should be retained as an authority competent to withstand the wishes of the Government of India

and of His Majesty's Government. We would prefer a method whereby the Secretary of State in these matters was statutorily required to consult a body containing those who had recent experience of service conditions in India and recognized a convention that their advice would not ordinarily be disregarded. For these reasons, if the alternative suggestions which we have made prove to be capable of adoption, we are prepared to see the disappearance of the Council as a body independent of Parliament and the legislatures in India.

229. **The Council as an advisory body.**—As an advisory body the Council of India has appeared to many observers to be somewhat ineffective, and to others to encourage a tendency to do over again at Whitehall work which has been done in India in closer relations to actual conditions. The Secretary of State is under no obligation to convene the Council oftener than once a month, to attend its meetings or to accept its advice, and it is generally believed that successive Secretaries of State have in very unequal degree availed themselves of the assistance which the Council is able to afford. If, as we hope, Parliament is prepared to specify the purposes of its intervention, the Secretary of State will require advice in a more limited range of subjects than in the past, and it is possible that the advice which he would require will not always imply the need for Indian experience. He will continue to stand in need of advice in military matters. Equally important is the advice which he should receive in regard to finance. We have already indicated that on service matters he should have recent experience of service conditions in India upon which he would call. We are not, however, convinced that the need for advice will justify statutory provision for a corporate body of advisers, and we would indeed be inclined to think that the financial advice should be obtained from a special committee smaller than the Council, and composed exclusively of persons in close contact with the practical finance of the day. But the method by which the Secretary of State may obtain advice is not a matter with which we are primarily concerned, and we would here only stress the necessity that he should have suitable expert advisers in regard to services, finance, and military problems, and that their experience, when it is Indian, should be recent.

GENERAL RESULTS.

230. **British India a political entity.**—So much by way of detailed criticism and recommendation the time at our disposal has permitted and our duty has seemed to us to require. In another portion of this despatch we have set out the principles which in our view should govern advance. We

have accepted the principles of a growing constitution and of an ultimate federation of all-India, and we have in various places described our proposals for a partnership between India and Great Britain in the administration of British India. Observing scrupulously the pronouncements which have in the past been made on behalf of Parliament in regard to the nature and pace of reform, and endeavouring to appreciate and pay due respect to Indian desires, we have nevertheless adopted no rigid mould into which the new constitution of India should be forced. At the outset we described the demand of Indian public opinion in relation to the announcement made by His Excellency the Viceroy and Governor General on the 31st October 1929 declaring the attainment of dominion status to be " the natural issue of India's constitutional progress ", and recorded our opinion that the broadest reasons of Imperial policy rendered it imperative to spare no efforts, and even to take some risks, in order to arrive at a constitutional solution which might carry the substantial assent of reasonable Indian thought.

The recommendations of the Indian Statutory Commission as to the provincial constitutions, with which in general we agree, represent a generous response to the popular demand for provincial autonomy. They contain within themselves the means of increasing adaptation to local circumstances, and to the wishes of those who will be charged with the task of working the constitution that the Commission have outlined. Our proposals, for the centre, in amplification of the plan put forward by the Commission, have been designed with a double purpose. On the one hand we have sought to examine the means by which the relations between executive and legislature can be established on a basis which offers a reasonable chance of harmony in working. On the other we have endeavoured to point the way to action that may now be taken to place upon the constitution the first, but definite, impress of dominion status. If we read history aright, it is exactly in this way that each and all of the Dominions have attained to constitutional nationhood.

Accepting the recommendations of the Commission that the members of the central Cabinet should be appointed by the Governor General, we have drawn what appeared to us the consequential inference that the exercise of the functions for the Government of India, which reside in the Crown, should be directly devolved upon the Governor General, and that therewith should go the power to appropriate the revenues of India. We think it right to state clearly that if this were done the Government of India would no longer merely be the agent of the Secretary of State. For the first time it would possess a distinct individuality. It would, it is true,

be within specified limits under the control of His Majesty's Government, but it is of the essence of our proposals that that control should be of such a nature as to establish partnership in place of subordination. The Government of India would then be a distinct entity, capable of acting in domestic matters on its own initiative and, within the ambit of its uncontrolled powers, free to pursue its own policy. *Vis-à-vis* the Dominions and foreign countries, it would occupy the new position which growing freedom in the conduct of external affairs would connote. That it would not be an entirely independent Government is due to circumstances, internal and external to India, which are generally familiar and which invest the problem with such peculiar difficulty. But while we are bound to suggest means by which provision can be made for the period of transition which must elapse before the complete fulfilment of British purpose, as declared in the announcements made on behalf of His Majesty's Government, we would set no artificial or statutory barrier to the natural evolution we desire to see. We believe that the greater part of Indian opinion will be ready to recognize the special interests of Parliament, provided that Great Britain on her side is prepared by action to show that she does not falter in her desire to invest India with the constitutional status that she seeks, and that her political development appears to us to justify. We would accordingly hope that if our suggestions are placed at the disposal of the Conference, they may be of some assistance to those on whom will rest a heavy responsibility, and the result of whose labours all who can measure the issues that are involved will anxiously await.

We have the honour to be,

SIR,

Your most obedient, humble servants,

(Sd.) IRWIN.
„ W. R. BIRDWOOD.
„ G. RAINY.
„ J. CRERAR.
„ GEORGE SCHUSTER.
„ B. L. MITTER.
„ FAZL-I-HUSAIN.
„ J. W. BHORE.

APPENDIX I.

NOTE BY THE CENTRAL BOARD OF REVENUE ON CUSTOMS (*vide* PARA. 251 OF VOL. II OF THE REPORT OF THE INDIAN STATUTORY COMMISSION).

Revenue Prospects (Customs).

Paragraph 251 of Volume II of the report purports to deal with central revenues in general, but, apart from a passing reference to growing income-tax receipts, Sir Walter Layton's discussion is confined to the customs revenue. In this paragraph he makes no definite estimate of its future growth, but in paragraph 289 (page 252) he estimates an annual expansion of ¾ crore, on the assumption that Burma will be separated, and that import duty at existing rates will be charged on imports from Burma. We propose to discuss paragraph 251, first of all, without reference to the effect of separation.

2. Sir Walter Layton begins by referring to the effect of monsoon failures on the revenue. He then refers to certain projects which should have a stimulating effect. He quotes certain figures exemplifying recent growth of trade, and deduces that expansion will be more rapid in the future. He sounds a note of warning as regards the existing tariff which he thinks may be above the point of "diminishing returns" on some articles, and refers finally to the depressing effect of high protective tariffs on the revenue. We propose to consider :—

(*i*) How far the figures which Sir Walter Layton quotes are reliable.

(*ii*) How far the conclusions which he draws from these figures and from other considerations are justified.

(*iii*) To what items we can reasonably look for expansion, and to what extent.

(*iv*) What factors are likely to interfere with normal growth.

We propose to deal with the advisability of reducing some of our rates of duty in a separate note.

3. The only figures Sir Walter Layton has quoted in support of his views are those at the foot of page 221, which are taken from the Review of the Trade of India for 1928-29 published by the Director

General of Commercial Intelligence. The table from which he quotes is the following :—

(In crores of Rupees.)

——	1913-14.	1920-21.	1921-22.	1922-23.	1923-24.	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.
Imports ..	183	142	124	138	120	137	143	156	181	190
Exports ..	244	172	182	214	240	250	246	228	248	260
Total trade in merchandise, excluding re-exports.	427	314	306	352	360	387	389	384	429	450

In this table the value of imports (and exports) for each year is expressed on the basis of the declared values for goods under the same head for 1913-14, so that the table compares the volume of trade instead of its total value. It would be a very laborious task to attempt to check all the Director General's figures, which only purport to be rough approximations, but we have worked out, independently, estimates for the 1923-24 and 1928-29 imports based on 1913-14 prices. The method we have adopted is to divide the Trade Returns into two sets of heads :

(*a*) Those for which quantities are recorded for all three years 1913-14, 1923-24, and 1928-29 ;

(*b*) Others.

We have calculated values on the 1913-14 basis for each important head under (*a*) for each of the years 1923-24, and 1928-29, and have then compared the resultant totals for (*a*) with the actual recorded values and reduced the actual totals under (*b*) in the same ratio.

4. The following table compares the results of our calculations with the Director General's figures :—

——			1913-14.	1923-24.	1928-29.
			Crores.	Crores.	Crores.
Actuals*	(*a*)	.. ..	128	158	164
	(*b*)	.. ..	55	70	89
	Total	..	183	228	253
Results on 1913-14 basis	(*a*)	.. ..	128	84	117
	(*b*)	.. ..	55	38	64
	Total	..	183	122	181
Director General's results on 1913-14 basis		..	183	190	190

These results, reached independently and possibly by different methods, are in sufficiently close agreement to justify reliance on the Director General's figures to the extent that we may assume (*a*) that the volume of trade has increased since 1923-24 by about 50 per cent. to approximately pre-war level, (*b*) that the rise in these six years was continuous, and (*c*) that it was most rapid between 1926-27, and 1927-28.

5. The existing projects which Sir Walter Layton considers will provide an additional stimulus to the import trade are, (*a*) irrigation schemes, (*b*) railway extensions, (*c*) road improvements and extensions, and (*d*) construction of harbours. In the present state of world-markets, with almost universal over-production of agricultural products and very low prices, it seems doubtful whether the bringing of additional areas under cultivation is likely to make for any great improvement in the import trade. The value of India's exports of "Grain, pulse, and flour" has fallen from 65 crores in 1924-25 to 34 crores in 1928-29. In fact if we take *nett* values (*i.e.*, after deducting the value of imported grain) there was a difference of no less than 41 crores. With this difficulty in marketing it seems highly unlikely that increased production of grain in India will stimulate imports. The demand for Indian cotton or oil-seeds has shown no tendency to increase in recent years, and everything seems to point to a long series of lean years for countries whose exports are mainly agricultural.

6. We understand that the present railway programme is normal. That is to say that it must be treated as one of the ordinary factors in the growth of trade, and not likely to be any more effective in the next ten years than in the past ten. It does not constitute a reason for anticipating a more rapid growth than in the immediate past. Road improvements and extensions will necessarily have a direct effect on our revenue from cars, tyres, and petrol, but improved internal transport facilities can do little to stimulate trade so long as the external demand for agricultural products remains weak. The construction of new harbours should have a slightly stimulating effect, but it must not be forgotten that they will very largely be sharing in the trade of existing harbours at the outset.

7. We now turn to the inferences to be drawn from the figures which Sir Walter Layton has quoted from the Review of the Trade of India (paragraph 4 above). He assumes without further investigation that the volume of trade will continue to grow, and ignores certain very important considerations. The first of these is that it is only the revenue from specific duties which is directly proportional to the volume of trade. For *ad valorem* duties we have to look to the value and not to the volume. We have also to remember that our import trade includes a large proportion of duty-free goods. We proceed to examine our import revenue in more detail, and for this purpose we propose to omit—

(*a*) Salt,

(*b*) Government Stores,

(*c*) Kerosene and Petrol.

Our reasons for excluding kerosene and petrol are that it is useless to consider the import, and excise duties separately. We shall, therefore, deal with them together in a later paragraph.

8. In the following table we show how our revenue was derived 1923-24, and 1929-30.

	1923-24. Lakhs.	*1929-30.* Lakhs.
Duty on Government stores	55	57
Duty on kerosene and petrol	114	181
Specific duties (revenue)	783	1,422
Specific duties (protective)	247	241
Ad valorem duties	*1,979*	*2,194*
Total import duties (excluding salt) ..	*3,178*	*4,092*

It is instructive to compare this table with the following table which shows the values under the various groups :—

	1923-24. Lakhs.	*1929-30.* Lakhs
Government stores	957	891
Kerosene and petrol	442	618
Goods liable to specific duties	3,684	4,012
Free goods	2,829	3,439
Goods liable to *ad valorem* duties	*15,696*	*15,877*
Total	23,608	24,837

9. The increase of 639 lakhs in specific duties (revenue) is undoubtedly due almost entirely to the fall in prices. Sugar alone has contributed 537 lakhs towards this figure, tobacco is responsible for a further 60 lakhs, and liquor for 28 lakhs. Sugar has reached a very low price-level and has recently been subjected to an additional duty. A substantial portion of the increase under tobacco is due to the raising of the rate on unmanufactured tobacco. At the old rate the 1929-30 revenue would have been 35 lakhs less. Prices have fallen considerably and are not likely to fall much more, so that we cannot look for much additional revenue under this head. In any case the tobacco revenue will have to be considered in conjunction with the tobacco excise, if introduced. There has been no steady rise in the liquor duties. The following are the figures for the last eight years :—

	Lakhs.
1922-23	235
1923-24	226
1924-25	250
1925-26	254
1926-27	261
1927-28	256
1928-29	252
1929-30	254

The additional indirect taxation on liquors imposed by the provinces has served and will continue to serve to prevent any substantial increase under this head. It cannot, therefore, be said that recent figures suggest any substantial improvement in our revenue from specific duties. The newer specific protective duties will no doubt secure additional revenue at first, but eventually they are bound to lead to a reduction, if the protection achieves its aim.

10. It is very significant to note that, although *ad valorem* duties have increased by nearly 12 per cent., the value of the goods on which they are assessed has only risen by a little more than one per cent. This reflects the reduction in the trades in cotton yarn and piece-goods on which rates of duty were low, and a corresponding increase in other trades, particularly motor vehicles. Nearly half the increase in the revenue from *ad valorem* duties is accounted for by the trade in motor vehicles and accessories. We shall revert to this point later. We will merely emphasize here that in 1929-30, apart from motor-vehicles and tyres, India has actually spent less on imported goods assessed *ad valorem* than in 1923-24. The small increase in the revenue is due to the change in distribution among commodities, a tendency which is not likely to develop much further. The figures, therefore, give no ground for anticipating a steady increase in the future.

11. It seems to us that in order to make any forecast for the future, on the basis of past experience, what we have to look to is the amount of wealth that has been available for the purchase of imported commodities, that is to say the total duty-paid value of imported goods. In the following table are displayed figures for ten years which we consider highly significant. They include all merchandise except Government stores and treasure.

	Value crores.	Duty crores.	Total crores.
1920-21 ..	333	23	356
1921-22 ..	265	28	293
1922-23 ..	231	34	265
1923-24 ..	227	32	259
1924-25 ..	245	38	283
1925-26 ..	226	38	264
1926-27 ..	230	39	269
1927-28 ..	248	39	287
1928-29 ..	252	41	293
1929-30 ..	239	41	280

It cannot be said that these figures contain any evidence of a steady rise in purchasing power. Nor do the figures for our export trade furnish any very great encouragement. For the last seven years the volume of the export trade has remained at about pre-war level (see table in paragraph 3), and the total value of exports has fallen from 349 crores in 1923-24, and 385 in 1924-25 to 330 in 1928-29, and 311 in 1929-30.

12. We have examined the returns carefully to see if there are any trades, particularly trades of recent growth, which hold out promise of continued and specially rapid increase. Our revenue from cinematograph films is still only 5 lakhs annually and its growth has been retarded by the increasing proportion of films made in India. The only promising trade of any magnitude is the trade in motor vehicles, accessories, and fuel. Our revenue from these trades is displayed in the following statement :—

(In lakhs of Rupees.)

	1923-24.	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.	1929-30.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Motor* vehicles ..	78	85	118	123	112†	135	131
Tyres	29	28	46	39	30‡	33	37
Petrol (excise) ..	65	79	77	96	121	155	282
Petrol (customs) ..	..	..	..	..	..	..	16
Total (motor trades)	172	192	241	258	263	323	466
Less one-third of petrol duties credited to the road-fund	..	..	..	..	..	..	99
Net ..	..	..	..	..	..	..	367

13. Changes in the rates of duty, falling prices, and the erection of assembly plants in Bombay tend to disguise the real growth of the trades. The figures for tyres, moreover, are affected by the much greater durability of tyres produced during the past three or four years. The consumption of petrol is the fairest indication of the growth of these trades. The rate of duty was lowered from six annas to four annas from 1925-26, and again raised to six annas from 1929-30. At the four anna rate the revenue from petrol would have been—

	Lakhs.	Percentage increase.
1923-24	44	..
1924-25	53	20
1925-26	77	45
1926-27	96	25
1927-28	121	26
1928-29	155	28
1929-30	199	28

* These figures are approximate. The Revenue Returns do not separate motor vehicles and accessories assessable at 15% from other vehicles and accessories similarly assessed. The Trade Returns, on the other hand, lump together all motor accessories whether assessed at 15% or at 20%.

† Duty reduced from 30 to 20%.

‡ Duty on pneumatic tyres reduced to 15%. Previous figures for pneumatic tyres only.

These figures suggest an increase of 28 per cent. in the petrol revenue annually.

14. If we take the 1929-30 nett petrol revenue at 2 crores, the figures for the next ten years at this rate of increase would be—

	Lakhs.
1930-31	256
1931-32	328
1932-33	418
1933-34	534
1934-35	680
1935-36	858
1936-37	1,080
1937-38	1,382
1938-39	1,770
1939-40	2,260
i.e., plus	2,060

with half these amounts accruing annually to the road fund. This estimate is undoubtedly much too high ; we, therefore, give below an estimate based on an annual increase of 15 per cent. It is, we suggest, reasonable to take a percentage increase each year rather than a fixed amount, since the expenditure on roads will grow with the nett revenue.

	Lakhs.
1930-31	230
1931-32	274
1932-33	305
1933-34	347
1934-35	398
1935-36	458
1936-37	529
1937-38	605
1938-39	695
1939-40	800
i.e., plus	600

15. Cars are imported partly in replacement of cars scrapped. If we assume that the proportion of vehicles imported to those scrapped is constant, the number imported in any year should be roughly proportional to the *increase* in the petrol consumption, which again is assumed to be proportional to the consumption in the previous year. Tyre consumption should also be roughly proportional to petrol consumption, so that by 1939-40 we should be getting four times (131 + 37) lakhs, *i.e.*, an additional 504 lakhs which with the 600 lakhs on

petrol give a total of 1,104 lakhs. Sir Walter Layton credits Burman consumption with 25|215ths of the present petrol excise. Applying this figure, which appears reasonable, to the total that has been arrived at above, we obtain for India, excluding Burma, an increase of 976 lakhs.

16. The above estimate is based on the very arbitrary assumption that we shall have an average annual increase of 15 per cent. in the petrol consumption. We have suggested reasons why a percentage increase is more likely than a fixed increase, but we may compare our result with that of an annual fixed increase of 44 lakhs which represents the difference (at 4 annas a gallon) between the 1928-29, and 1929-30 receipts. This would give us in ten years an additional revenue of 440 lakhs from petrol. A similar increase of 220 per cent. on cars and tyres would give us an additional 370 lakhs, *i.e.*, a total of 810 of which the share of India (excluding Burma) would be 716 lakhs.

17. We have still to consider the kerosene duties. The following table shows the revenue for the past seven years :—

	1923-24.	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.	1929-30.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Customs	102	114	127	102	149	163	164
Excise	95	98	98	105	97	92	98
Total ..	197	212	225	207	246	255	262

There has been an annual increase of approximately 11 lakhs, almost all derived from customs revenue. This is equivalent to an increase in annual consumption of 7 million gallons or, say, 6.2 millions in British India alone. The increase in consumption in British India between 1913-14, and 1928-29 was 51 million gallons, an average of 3.4 millions annually. A fair estimate for the future would be 5 million gallons per annum, and if it is decided eventually to equalize the excise and customs rates of duty (say at 2 annas per gallon) we may take 10 million annas, *i.e.*, 6¼ lakhs, as the average increase for the next ten years, *i.e.*, about 62 lakhs increase by 1939-40.

18. To summarize, we suggest the following as likely increases in customs revenue, including the two excises which are classified as customs revenue :—

	Crores.
From kerosene	0.6
From motor and allied trades (including petrol)	9.8
From other sources	*nil.*
Total ..	10.4

If the assumption made in paragraph 16 is given preference over that in paragraph 15, the estimate will be reduced to 7.8 crores.

19. There remain to be considered the effects of extraneous influences on the revenue. The most important of these are—

(*a*) Scanty rainfall.

(*b*) Decreased purchasing power resulting from other forms of taxation,

(*c*) Political unrest.

The motor and allied trades are among those least likely to suffer from any of these influences, and we believe our estimate to be cautious enough to provide for risks under the first two heads. The third head must necessarily remain an unknown quantity. Our estimate for kerosene also errs on the cautious side and may, we think, be accepted as allowing for set-backs. Similarly, we shall not be unduly timid if we assume no decrease under the customs revenues. Serious political disturbances may, of course, completely upset these calculations, but they should not do so unless they are so serious as to alter radically the system of government for which these financial arrangements are intended to provide.

APPENDIX II.

EXTRACT FROM A NOTE BY THE SENIOR MEMBER OF THE CENTRAL BOARD OF REVENUE ON THE LOWERING OF THE TAXABLE MINIMUM, AND STEEPENING THE GRADATION OF INCOME-TAX.

* * * * * *

4. *Lowering of taxable minimum.—(Paragraph 267).* Sir Walter Layton suggests that the exemption limits both for income-tax and super-tax (Rs. 2,000 and Rs. 60,000, respectively) are too high and should be lowered, but has made no specific recommendation. The exemption limit for income-tax was raised to Rs. 500 in 1886, to Rs. 1,000 in 1903, and Rs. 2,000 in 1919. I do not suppose that anybody would propose that the limit should be placed lower than Rs. 1,000. If it were proposed to lower the exemption limit, it seems to me that it would be difficult to resist a demand, which has been made even under existing conditions, that allowances should be given for wives and children. As the Taxation Enquiry Committee observed, practically every taxpayer in India is married, whereas in England there is a large number of unmarried persons of both sexes who pay income-tax. With reference to Sir Walter Layton's suggestion that the exemption limit for income-tax in India is high, the absence of any allowance for wives or children or for earned income must not be overlooked. As a matter of fact, for a married man, even without children, the exemption limit in England (£225) is higher than the exemption limit in India. The exemption limit proposed in the draft Ceylon Ordinance, it is interesting to note, is Rs. 2,400, and it provides for a personal allowance of Rs. 2,000, an allowance of Rs. 1,000 each for wife and family (whatever the number of children), and an earned income allowance of 1/5th of the income, subject to a maximum allowance of Rs. 4,000. I presume that the economic conditions in Ceylon are not so very different from those in India, though probably the general standard of wealth is higher.

5. It is also worth mentioning that although the assessable limit in the case of a single person is somewhat higher in India than in England, the percentage taken as tax of the lower incomes in India, if I may rely on the tables at the end of the draft Ceylon Ordinance, which were prepared by an expert from Somerset House, is actually higher—and a great deal higher—in the case of earned incomes in India than in the United Kingdom, even if for the purposes of comparison unmarried persons in the United Kingdom are taken. The table shows the following percentages :—

	Income—all earned.	
	British India (all classes).	United Kingdom (single persons)
	Rs.	Rs.
Income Rs. 2,400	62.5	20
Income Rs. 2,500	65.16	28.33
Income Rs. 3,000	78.13	70

Even where the income is all unearned, the tax on an income of Rs. 2,400 for all classes of assessees other than companies and re-

gistered firms, is Rs. 62.5 in India against Rs. 60 for a single person in the United Kingdom.

6. The objections to introducing allowances for wives and children in India are obvious. As already stated, they would be admissible to the vast majority of individual tax-payers, and, therefore very costly. Great difficulties would arise in applying such a system to the Hindu undivided family. It would probably be necessary to give it a *higher* exemption limit. There would be much more room for fraud in connection with these allowances than in a country with a highly developed system of registration of marriages and births. To check such frauds, " inquisitorial investigations" into the domestic affairs of assessees would be necessary. These would cause much work and intense friction. It is highly desirable to restrict the body of disputable facts on which the Income-Tax Officer is required to pronounce a decision, but it would be quite unsafe in present circumstances—in a large number of cases—to admit an assessee's claim that he had a certain number of children without proof, or to accept evidence on such a point without verification. This is probably why in the Ceylon Draft Ordinance a flat allowance for a family irrespective of its size was proposed. That would of course get over the difficulty to some extent, but in a rather rough-and-ready manner.

7. *Steepening the gradation between Rs. 5,000 and Rs. 1,00,000—(Paragraph 267).* Sir Walter Layton says that there is considerable scope for the steepening of the progression of the rate of tax on incomes between Rs. 5,000 and Rs. 1,00,000. We criticized a similar proposal of the Taxation Enquiry Committee in our note, dated 25th December 1925. We there pointed out the objections to imposing additional taxation in the particular zone that the Committee's proposals affected, namely, that including incomes between 15,000 and 29,999, at all events unless simultaneously an allowance were introduced on account of earned income, since most earned incomes (salaries and professional incomes) fall in that zone, and incomes in that zone are mainly salaries or professional earnings.

8. At present the income-tax gradation stops at Rs. 39,999. All incomes of Rs. 40,000 and over pay the maximum rate ; at present one anna and 7 pies in the rupee. Sir Walter Layton apparently proposes both to steepen the present gradation from Rs. 5,000 to Rs. 40,000 and also to continue this rising scale of rates up to a lakh. The maximum rate of income-tax will thus be very much higher than at present and the present maximum will be reached somewhere below Rs. 40,000. Simultaneously, the super-tax limit is to be lowered to, say, Rs. 30,000 or even Rs. 40,000, but the rates of super-tax on incomes exceeding one lakh are not to be increased. There will, it seems to me, be difficulties about companies and firms. If the maximum rate of income-tax, whatever it may be, is imposed on all companies and firms, there will be a large increase in the number of refunds owing to the extension of the gradation. If the maximum rate is not so imposed, it would be necessary not only to give refunds in some cases, but also to make supplementary assessments in others, for example, on shareholders in companies, a most undesirable complication. On the other hand, it may not be thought desirable to impose

additional taxation on the undistributed profits of companies, at all events ; and objection would, no doubt, be raised to imposing (though subject to refund) a very much higher rate of tax than the present maximum on petty firms including all whose income exceeded Rs. 1,000. Even at present rates we have been attacked on this ground, though not always with understanding.

* * * * * *

APPENDIX III.

ESTIMATES ACCORDING TO SIR WALTER LAYTON'S SCHEME.

Statement I.

Central Government.

—	Budget 1929-30 (including Burma).	1929-30 (excluding Burma).	1940-41 (excluding Burma).	
Central Revenue—				
Customs ..	51·22	47·91	54·00(*a*)	(*a*) Growth of revenue +7·50 Loss of revenue on foreign liquor —1·50
Income-tax ..	16·60	14·75	14·00(*b*)	(*b*) Growth of revenue +5·00 Transfer to provinces .. —6·00
Salt	6·35	6·00	..	
Commercial stamps	..	..	2·00(*c*)	(*c*) The estimate in the body of the report is 1·50, but the figure given in the table on page 361 is +2·00.
Other taxes ..	1·19	1·09	1·09	
Total taxes ..	75·36	69·75	71·09	
Railways (net) ..	6·25	6·00	6·00	
Opium (net) ..	2·35	2·35	..	
Currency and mint (net).	2·35	2·35	2·35	
Tributes from Indian States	·74	·74	·74	
Other receipts (net)..	1·17	1·17	1·32	
Total ..	88·22	82·36	81·50	

——	Budget 1929-30 (including Burma).	1929-30 (excluding Burma).	1940-41 (excluding Burma).	
Central expenditure—				
Defence (net) ..	55·10	52·10	45·00(*d*)	(*d*) Saving of 7 crores anticipated. Of this 3 crores will be absorbed by the growth of civil expenditure.
Debt charges (net) ..	12·14	10·14	10·14	
Civil administration (net).	11·56	10·20	13·00(*d*)	
Loss on post office, irrigation, and forests	·39	·39	·33	
Cost of collection ..	3·32	3·12	3·12	
Civil works (net) ..	2·41	2·41	2·41	
Pensions	2·78	2·48	2·48	
Other expenditure (net).	·52	·52	·52	
Surplus from separation of Burma.	..	1·00	..	
Surplus	..	..	4·50	
Total ..	88·22	82·36	81·50	

Statement II.

Provincial Estimates : 1929-30.

	Madras.	Bombay.	Bengal.	U. P.	Punjab.	B. & O.	C. P.	Assam.	Total.
Revenue.									
Land revenue ..	6·21	5·12	3·24	7·10	2·82	1·75	2·45	1·24	29·93
Excise	5·54	3·89	2·25	1·37	1·30	1·90	1·28	·64	18·17
Stamps	2·56	1·77	4·22	1·79	1·21	1·11	·75	·22	13·63
Registration ..	·37	·12	·41	·14	·09	·18	·08	·03	1·42
Scheduled taxes ..	..	·21	·18	..	..	..	..	..	·39
Total taxes ..	14·68	11·11	10·30	10·40	5·42	4·94	4·56	2·13	63·54
Forests (net) ..	·10	·26	·14	·24	·04	·01	·16	·18	1·13
Irrigation (net) ..	·23	—·42	—·04	·09	3·09	—·05	—·32	—·01	2·21
Other sources ..	1·38	3·18	1·07	1·03	2·27	·62	·43	·26	10·24
Total ..	16·39	14·13	11·11	11·76	10·82	5·52	4·83	2·56	77·12
Expenditure.									
Land revenue and general administration	2·83	2·97	1·91	2·46	1·59	1·02	1·04	·50	14·32
Police	2·01	1·79	2·17	1·75	1·22	·85	·62	·30	10·71
Jails and justice ..	1·33	·99	1·49	1·16	1·07	·62	·44	·17	7·27
Debt	1·01	2·06	—·01	·63	—·22	·02	—·05	—·01	3·43
Pensions	·70	·71	·80	·64	·36	·30	·25	·10	3·86
Education ..	2·69	2·11	1·48	2·04	1·75	·92	·59	·33	11·91
Medical and public health	1·44	·91	1·00	·68	·81	·54	·21	·22	5·81
Agriculture and industries	·66	·33	·41	·54	·73	·28	·23	·10	3·28
Civil works ..	2·41	1·64	·98	·52	1·84	·83	·87	·76	9·85
Other	1·46	·90	·96	·66	·62	·49	·34	·23	5·66
Total ..	16·54	14·41	11·19	11·08	9·77	5·87	4·54	2·70	76·10
Surplus + ..	..	..	..	+·68	+1·05	..	+·29	..	+1·02
Deficit— ..	—·15	—·28	—·08	..	..	—·35	..	—·14	..

Statement III.

Provincial Estimates 1940-41.

——	Madras.	Bombay.	Bengal.	U. P.	Punjab.	B. & O.	C. P.	Assam.	Total.
Revenue.									
Revenue as on previous page ..	16·39	14·13	11·11	11·76	10·82	5·52	4·83	2·56	77·12
Income-tax on personal incomes (*a*)..	·87	1·55	1·64	·56	·53	·40	·29	·16	6·00
Surcharge on income-tax (*a*)	·45	·89	·66	·32	·27	·18	·16	·07	3·00
Income-tax on agricultural income (*b*)	·90	·50	·90	·90	·70	·40	·40	·30	5·00
Terminal taxes (*c*) ..	1·46	·66	1·63	1·57	·73	1·18	·49	·28	8·00
Provincial fund (*c*) ..	2·56	1·16	2·87	2·74	1·28	2·08	·86	·45	14·00
Total ..	22·63	18·89	18·81	17·85	14·33	9·76	7·03	3·82	113·12
Expenditure.									
Expenditure as on previous page ..	16·54	14·41	11·19	11·08	9·77	5·87	4·54	2·70	76·10
Surplus	6·09	4·48	7·62	6·77	4·56	3·89	2·49	1·12	37·02

(*a*) Distribution based on income-tax on personal incomes in 1928-29.
(*b*) Guess work.
(*c*) Distribution based on population.
(*d*) It is assumed that loss of revenue due to transfer of commercial stamps (1·50) will be covered by the additional excise duty on Foreign Liquor.
(*e*) It is assumed that normal growth of revenue will cover normal growth in expenditure.

APPENDIX IV.

STATEMENT SHOWING THE ASSIGNMENTS TO THE LOCAL GOVERNMENTS UNDER RULE 15 OF THE DEVOLUTION RULES FOR THE YEARS 1921-22 TO 1928-29.

Provinces.	1921-22.	1922-23.	1923-24.	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1. Madras	9,73,066	..	10,61,931	1,52,671	4,43,404	4,59,177	6,07,790	5,45,760
2. Bombay	14,07,000	15,31,085	..	..	..	..	..	..
3. Bengal	..	..	..	..	..	..	..	..
4. United Provinces	3,19,137	26,078	..	..	..	..	..	77,365
5. Punjab	..	5,74,955	4,08,808	2,04,544	3,29,445	4,08,058	5,31,379	4,03,527
6. Burma	2,63,188	..	35,157	5,93,989	8,99,099	13,79,472	15,39,684	12,22,182
7. Bihar and Orissa	61,937	2,86,259	2,55,149	2,46,255	2,32,383	3,23,581	3,32,926	4,74,011
8. Central Provinces	29,160	1,49,106	3,38,062	1,97,647	1,66,012	2,16,803	1,78,784	2,22,807
9. Assam	..	1,15,944	4,15,669	5,53,603	5,29,721	4,90,951	5,64,079	6,63,446

APPENDIX V.

DUTY ON FOREIGN LIQUOR (*vide* PARA. 291 OF THE REPORT OF THE INDIAN STATUTORY COMMISSION).

Sir Walter Layton's proposal is that the Government of India should levy an import duty of 30 per cent. *ad valorem* on all foreign liquors, and that it should be open to the provinces to levy such additional excises as they wish. The practical implications of this, and of similar proposals which involve handing over the taxation of foreign liquors to provincial governments have been examined and there appear, *prima facie*, to be a number of obstacles in the way of any successful arrangement on these lines.

2. It is an essential feature of the proposals that the provincial governments should be free to adopt any policy they wish in regard to foreign liquor. At the outset, therefore, the Government of India would have to decide what "foreign liquor" should include. The main head "Liquors" in the tariff includes the following articles :—

Serial No.	Articles.	Rate of duty.	Duty in lakhs.	Average *ad valorem* incidence of duty (1929-30).
				%
1	Ale and other fermented liquors.	8 annas per gallon ..	24	22
2	Denatured spirit ..	7½ per cent.	1	7½
3	Perfumed spirits ..	Rs. 36 per gallon or 15 per cent. whichever is higher.	5	44
4	Preparations containing spirit not tested.	Rs. 30 per gallon or 15 per cent. whichever is higher.	20	46
	Ditto tested ..	Rs. 21-14-0 per *proof* gallon or 15 per cent. whichever is higher.		
5	All other sorts of spirit	Ditto ..	189	112
6	Sparkling wines ..	Rs. 9 per gallon ..	15	50
7	Other wines	Rs. 4-8-0 per gallon ..		
		Total ..	254	

If the Government of India collected only a 30 per cent. duty on those classes on which the incidence exceeds that figure, and duty

at the present rates on other classes, the loss to the central revenues would be :—

	Lakhs.
1. Ale and other fermented liquors	*Nil.*
2. Denatured spirit	*Nil.*
3. Perfumed spirits	1
4. Preparations containing spirit	7
5. All other sorts of spirit	138
6. Sparkling wines 7. Other wines .. }	6
Total ..	152

4. The above tables give a fairly clear idea of what we have to deal with, but from the point of view of classification difficulties the important item is No. 4. This item includes spirituous drugs and medicaments, spirituous toilet and other preparations, and liquors and cordials, but not ordinary spirits like whisky, gin, etc., of which "obscuration" is small. These ordinary potable spirits are assessed under class 5, but the rate of duty on the two classes is the same in order that the revenue under class 5 may be protected. Now, for the purpose of the local excises class 5 (spirits), and liquors which fall in class 4, are treated as foreign liquor, but spirituous drugs and other preparations are not. No licences are required for their sale, no vend fees are collected on them, and no permits are required for their transport. The question at once arises : are they on the one hand to be treated as "foreign liquor" and subjected to provincial excise duties and restrictions, to the very great inconvenience of those who trade in them, or are they on the other hand to be excluded from local excise control, and subjected merely to a central import duty which, if it is lower than the local excise duty, may render them a danger to the excise revenue ?

5. Assuming that a solution could be found for this difficulty, the next objection that arises relates to the administration of different rates of duty, and possibly of different classifications of liquor for duty purposes, in different provinces. The process of assessment to duty would be carried out in the province of consumption, and it would presumably be necessary for each province to establish one or more bonded warehouses into which liquor could be brought after clearance from the custom house at the place of import. This would necessitate in the first place, complicated arrangements for transport in bond all over India, and suitable preventive arrangements might be expensive and inconvenient. It might be possible for the inland provinces to arrange with the maritime provinces for the latter to collect their duty for them ; but it would probably be difficult for them to arrive at an agreement, for rates of duty in two provinces and the method of classification of liquors might differ. Incidentally, a system of inland bonded warehouses of this nature would mean

a complete reorganization of the basis on which distribution is at present undertaken by the trade.

6. The principal wholesale dealers at the great ports at present maintain considerable stocks of duty-paid liquors which can be despatched at a moment's notice to customers in different parts of India. Under the new proposal the local Government of the place to which such liquors were despatched would levy their own excise duty on them, and the wholesale dealer would have to obtain a refund from the local Government of the province of original import. This would lead to further difficulties and complications. Moreover, if the interprovincial transport was confined to liquor travelling under bond from one inland bonded warehouse to another in another province, dealers would often find it impossible to implement urgent orders from up-country customers owing to the delay involved in transport from one warehouse to another, and in assessment at the warehouse in the province of arrival.

7. The danger of smuggling from a province with a low rate of duty into one with a higher rate of duty is too obvious to need emphasizing. The excise departments, of course, already have to deal with this difficulty in connection with country-liquor ; but with the increase in motor-car traffic the danger would be very much greater with foreign liquor, and they would probably find it necessary to maintain an expensive staff all round the borders of each province.

8. A much more important difficulty would arise in connection with Indian States. The present situation, whereby all foreign liquor going into an Indian State has already paid Indian customs revenue, gives rise to no particular trouble. The States' claim to a share in that revenue is merely a part of their claim to a share in the general customs revenues and does not raise any new and separate problem. If, however, all the duty on foreign liquor were to be provincialized, Indian States would have to obtain their supplies of foreign liquor through one or other of the maritime provinces, and they would certainly raise the very strongest objections if they were required to pay duty which was going towards provincial revenues. The alternative of letting States have their liquors free of duty would create an intolerable position for the provincial governments, owing to the danger of smuggling from the States into the provinces. Nor, would any arrangement by which the States agreed to collect duty themselves be satisfactory, owing to the different rates of duty prevailing in the different provinces.

9. The Government of India are discussing these practical difficulties with the provincial governments, and, if they prove to be insuperable, alternative method of giving the provincial governments a share in the revenue from foreign liquors will be considered.

APPENDIX VI.

TAXATION OF TOBACCO (*vide* PARA. 272, VOL. II OF THE REPORT OF THE INDIAN STATUTORY COMMISSION).

Sir Walter Layton's proposal is for a central excise duty levied on factory-produced tobacco and credited to the provincial fund. He makes no specific recommendation regarding other means of taxing tobacco. Those suggested by the Taxation Enquiry Committee were :—

(*i*) An excise duty on factory tobacco.

(*ii*) The levy of a fixed fee based on the estimated outturn of places where cigars, cigarettes or pipe or cigarette tobacco are manufactured by hand.

(*iii*) A system of vend licences leading up to vend monopolies in specified areas.

Clearly any excise duty to be levied on factory tobacco must be uniform and, therefore, central, but nothing would be gained by insisting on uniformity in the fees to be levied on hand manufacture or in respect of vend licences. Such forms of taxation should remain, as they are at present, purely provincial.

2. A well-organized system of vend-fees, particularly if these were based on sales, might prove a fruitful source of provincial taxation, and this is a line of action deserving of further study, although it must be realized that such fees would obviously have to be credited to the province of collection and, therefore, do not exactly fit into Sir Walter Layton's scheme. On the other hand, the prospects of an excise on factory products are not as bright as they appear at first sight. It is true that, as stated by Sir Walter Layton, the consumption of tobacco in the form of cigarettes has grown rapidly. It is not equally true to say that there has been a similar growth in the consumption of pipe tobacco and cigars. Such evidence as is available suggests that these are being steadily replaced by cigarettes.

3. The annual production of cigarettes in India was estimated by the Taxation Enquiry Committee at about 4,500,000,000, and the tobacco used in their production may be estimated at about 10,000,000 lbs. About half of this is imported tobacco which already yields import duty amounting to 75 lakhs per annum. Import duty is also levied on the cigarette paper, which is all imported, and on most of the tinplate and paper and card-board used for packing. The Indian cigarette industry is thus already paying some 80 lakhs of duty annually. This is equivalent to about Rs. 1-13-0 per thousand cigarettes. At present no definite information is available as to the average prices at which these cigarettes are sold, but we believe it to be not much more than Rs. 5 per thousand, so that the

incidence of this taxation is, even now, probably more than half that of the duty on imported cigarettes which averages about 65 per cent. *ad valorem.*

4. Even in these circumstances the Indian factories find it difficult to compete, in all except the very cheapest brands, with imported cigarettes, and the largest manufacturers in India about a year ago decided to postpone indefinitely schemes for the extension of their activities. It is fairly clear, therefore, that any increase in the taxation of the local product, to be remunerative, must be accompanied by an increase in the import duties which at present press most heavily on the cheapest brands imported. The problem, therefore, resolves itself into a decision as to what further increase our import duties can bear without checking consumption to such an extent as to reduce revenue. This question needs further investigation which will involve the collection of much more detailed information than is at present at our disposal, information which will take time to collect. All that can be said at the moment is that Sir Walter Layton's estimate is much too high and that a sum of two crores is not too cautious an estimate of the probable annual revenue, after 10 years, from an excise duty on cigarettes.

5. These considerations raise the question whether in order to avoid a clash between provincial and central interests, it will not be convenient to include in the provincial pool the proceeds of the import duty on all articles subject to a central excise duty collected for provincial purposes. Sir Walter Layton, for obvious reasons, contemplates this course in respect of the salt tax, and it may prove desirable to extend it to other taxes of a similar nature.

6. The cheaper classes of cigarettes are sold in competition with *bidis* which consist of dried country tobacco rolled in leaf instead of paper. There is a very large consumption of this form of tobacco which, formerly, was produced entirely as a cottage industry. Recently factories have been started in certain provinces. No information is at present available as to their output, nor as to the amount of tax that would have to be applied to factory-produced *bidis* to protect adequately an excise duty on cigarettes. These again are matters for which special and detailed enquiries will be necessary. It is, however, unlikely that revenue from this source would contribute largely to the proposed tobacco excise. For the smaller *bidi* factories where mechanical power is not employed it has been suggested that revenue might be derived from a system of manufacturing licences. Such revenue would naturally be credited direct to the provinces in which it is collected.

7. The provinces who have been consulted in the matter do not as a whole favour special taxation of tobacco cultivation.

8. Whatever final conclusions may be reached as to the best method of obtaining further revenue from tobacco, it is doubtful whether anything can be done in this direction in the near future. An agitation against smoking, and in particular against cigarette-smoking, has been a prominent feature of the recent political

situation in many parts of India, and the general economic depression has given the movement considerable force. The import duties on tobacco for the first four months of the current financial year are less than half the normal figure, and any increase in taxation at the present juncture is likely to result in a set-back to the trade which may seriously prejudice the prospect of making it an increasing source of revenue in the future.

APPENDIX VII.

Excise duty on matches.

(Vide *paragraph 273, Vol. II of the report of the Indian Statutory Commission.*)

Sir Walter Layton recommends an excise duty at the rate of the present import duty and considers that it should yield about 3 crores. This implies an annual consumption of 20 million gross of boxes. It was only at the beginning of the past decade that the manufacture of matches in India began to supply an appreciable proportion of the demand. Before the war the annual import amounted to some 12 to 15 million gross, consisting mostly of British and Swedish matches. During the war there were very large imports of inferior Japanese matches, and the highest figure reached was about 18 million gross in the year 1915-16. No doubt the inferior quality was largely responsible for the increased consumption. The consumption is bound to react to any considerable increase in price, and it would not be safe to rely on a consumption of more than 15 million gross annually.

2. An important factor which will militate against the success of an excise duty of this nature is its almost inevitable unpopularity. Although, no doubt, there is specially heavy consumption of matches among smokers, the bulk of the match consumption is accounted for by other purposes, and the burden of the greater part of the tax will be fairly evenly distributed over the whole bulk of the population. Thus every objection that can be or has been raised against the salt tax can be raised with almost equal force against a duty on matches. It is a tax, moreover, whose effects will be much more strikingly apparent to the consumer than the effect of a rise in the salt duty for reasons which will appear from what is stated in the following paragraph. Further, it is a tax which can be resisted much more successfully than the salt tax. Economy in the use of matches can be practised in numerous ways and would undoubtedly seriously affect the revenue if any agitation against the tax took place.

3. Sir Walter Layton endorses the view of the Taxation Enquiry Committee that " care should be taken to fix the tax at such a level as to absorb as far as possible (into the Exchequer) the whole of the increase in price ". It is here that the difference in the general standard of living between Indian and European countries makes itself felt. In India a considerable proportion of the matches consumed are sold by the single box, and a further large proportion in lots of three boxes. The present ordinary retail price is one pice per box or two pice for three boxes. It has been calculated that the maximum duty that could be imposed without affecting the price of single boxes is four annas per gross. Such a duty would almost certainly have the effect of raising the retail price of three boxes from two pice to three. Thus while the duty would only bring

in about 37½ lakhs, it would be universally felt. If the duty were at a higher rate than four annas, the retail price per box would probably advance to two pice, and unless the duty were raised to a figure of from Rs. 2-4-0 to Rs. 2-8-0 per gross boxes, the greater part of the increase in price would go into the manufacturer's pockets. In other words, there will clearly be great difficulty in making a tax conform with the condition that it shall not further enrich the manufacturers when it is applied to an article commonly sold retail in quantities whose price is the smallest convenient unit of coinage. It may be observed that the higher rate of duty, which would correspond to a retail price of two pice per box, is higher than the rate imposed in many European countries.

4. There are various methods by which a duty of this kind might be collected. The one favoured by the Taxation Enquiry Committee is the application of a label in the form of a " banderol " which must be broken before a box can be used. There are obvious difficulties in the way of applying this system to imported matches, and other methods are under consideration. Another grave difficulty will be the possibility of manufacture in Indian States, and it seems certain that before the tax can have any chance of success, agreements will have to be reached with the States.

APPENDIX VIII.

TERMINAL TAXES.

1. **The present position.**—Terminal taxes at present constitute a comparatively unimportant factor in local taxation in India, having been imposed in place of octroi by certain local authorities. The Schedule Taxes Rules permit the Legislative Council of any province to pass legislation imposing an octroi or authorizing any local authority to impose such a tax. Where a terminal tax is concerned, similar power may be exercised in the cases of those local areas only which levied an octroi prior to the 7th July 1917. To the imposition of a terminal tax in any other local area the sanction of the Governor General in Council is required. Such sanction has on occasion been accorded, while there have been a number of examples of the conversion of octroi into terminal tax : but the amount of revenue raised by terminal taxes constitutes a relatively small proportion of the total sum of approximately 2 crores of rupees now collected by local authorities in the shape of terminal taxes and octroi.

2. **Sir Walter Layton's proposals.**—Sir Walter Layton recommends the levy of a terminal tax for provincial purposes at every railway station in India. This tax would apparently be collected by railway officials ; and it would be supplemented, where necessary, by a like impost on river-borne traffic. Sir Walter considers that road-borne traffic is not at present a sufficiently serious competitor with railway traffic to require similar treatment. It is not clear whether it is intended to superimpose the new tax upon the octroi and terminal taxes already levied by local bodies or to absorb the latter in it. Absorption would obviously facilitate administrative arrangements, but it would involve the necessity of compensating the authorities concerned for the resulting loss of revenue. Finally, it should be stated that Sir Walter is not inclined to regard the proposed tax as a permanent feature of India's financial system ; he supports it as a temporary measure, suited the country's present stage of economic development.

3. **General effect of the tax upon Railway Finance.**—In whatever shape the proposed tax were levied, it is quite clear that it would amount to a surcharge upon the cost of transportation. So far as rail-borne traffic is concerned, it would constitute a subvention from the railway revenues of the central Government to the revenues of the various provinces. Incidentally, if immediately imposed, it would operate to prevent the reduction of fares and freight rates, the urgent need of which Sir Walter Layton emphasizes in another part of his report. Assuming that stores, fuel, etc., carried for railway purposes would be exempted from liability, a revenue of 8 crores from the proposed tax would involve an addition of approximately 15 per cent. to the present cost of transportation. It is not suggested that this is a conclusive argument against the imposition of the tax ; though it would doubtless be pressed by company-owned and company-managed lines. Assum-

ing that the central Government is to surrender to the provinces such portion of its revenues as may be found to be in excess of its requirements, it may be both convenient and justifiable to give up a portion of railway revenues and even to increase the costs of transportation in order to create a margin for surrender. The state railways in India are at present singularly free from taxation ; since they are neither burdened with heavy local rates nor assessed to income-tax on their profits. On grounds of abstract principle, it would not be improper to raise railway rates to a height which would yield not only a fair interest on borrowed railway capital but also a fair contribution to general taxation. Rates must, however, be fixed with due regard to their effects upon traffic ; and it is more than doubtful whether the cost of transportation could now be raised to the height contemplated by Sir Walter Layton without serious results upon the working of the railway system as a commercial concern.

4. **Effects of the tax upon railway traffic.**—Apart from the actual surrender of railway revenue, there is ground for supposing that the imposition of a provincial tax of this nature might have deleterious effects upon railway traffic. It would be undesirable to favour short, as opposed to long, distance traffic by exempting it from the tax. Unless, however, it were exempted, its taxation must inevitably lead to the diversion of traffic from the railways to the roads. As long as the proceeds of a terminal tax accrue direct to a local authority that authority may be trusted to make some sort of attempt to collect on traffic so diverted, and by so doing to discourage diversion. If the tax became provincial, the incentive to such efforts would be largely lacking. Similarly, there would, in the case of goods carried by river and particularly by country boat, be greater opportunities of evading a terminal tax ; and this also would tend to create a diversion of traffic. In maritime provinces, there might be similar diversion to coasting or other vessels. Again, the fixation of freight rates is a scientific proceeding, and, if it were conducted without detailed knowledge of local conditions, the results upon traffic might be serious. Finally, the desire to avoid double taxation would operate to decrease the traffic to and from the present local distributing centres.

5. **General conclusions.**—The general position may be summed up by stating that, if the central Government is to surrender to the provinces such part of its revenue as may be surplus to its requirements, there is no theoretical objection to the surrender of surplus revenues derived from the railway system. The possibility of creating a railway surplus by the enhancement of transportation charges would, however, require careful investigation before it could be held to be established. On the other hand, the particular method of effecting such a surrender which is proposed by Sir Walter Layton is liable to produce disastrous effects upon the volume of traffic borne by the railways and, therefore, upon their gross revenues. It has been suggested, as an alternative to Sir Walter Layton's proposal, that the terminal tax, though collected provincially, should remain a source of local authorities ' revenue ; the proceeds being distributed by local Governments to the local

authorities under their control. This would assist provincial finances by relieving the budgets of the local Governments of certain cash contributions which they now make to their local bodies. This proposal might obviate difficulties in connection with the treatment of the terminal taxes and octroi at present levied by local authorities ; but it would, in all essential points, be open to the objections urged against the provincial tax.

6. **Assam.**—While the foregoing objections are strong against the introduction of terminal taxes as a general source of provincial revenue, it would be possible to argue in favour of their institution, as a special measure, in special circumstances such as exist, for example, in the province of Assam. The Government of Assam have pointed out, first, that neither octroi nor terminal tax has yet been introduced by any local authority within the province ; secondly, that it is in urgent need of the proceeds in order to finance the development of internal communications, thereby increasing the volume of the trade and of railway traffic ; thirdly, that it is in a position to exercise effective control over river-borne traffic, which is approximately equal in volume to that carried by rail ; and, fourthly, that the province is situated at the end of the railway system, so that the tax, if imposed upon imported goods only, could not operate as a transit duty. These arguments are not without force. The circumstances of this province are special, and there is reason to hope that a proper utilization of the proceeds of such taxes might operate to increase, rather than diminish, railway traffic within its borders. The question requires further investigation in detail, which it is proposed to undertake. Pending the results of such investigation, the question whether the tax should be imposed upon exported goods as well as upon imports and local traffic may be regarded as open.

7. **Bihar and Orissa.**—The Government of Bihar and Orissa also have represented their desire to impose terminal taxes for provincial purposes. In this case, the special considerations urged by Assam have no applicability ; although it is true that such taxes have not yet been levied by local authorities in the province. The general objections to the taxes as a provincial impost are applicable in this case. Their development as a source of municipal revenue must be governed by the policy which may be adopted, in this connection, for India as a whole.

8. **The maintenance of terminal taxes as a legitimate form of taxation by local authorities.**—As already explained, terminal taxes can at present be authorised by a local legislature, as a method of financing local bodies, wherever an octroi was in force on the 6th July 1917 ; and can be levied in other local areas with the special sanction in each case of the Governor General in Council. It is a matter for consideration whether this position should be stereotyped under the new constitution, and the question is engaging the attention of the Government of India. It has long been recognized that neither a terminal tax nor an octroi constitutes an ideal form of taxation. The former is apt to become little more than a transit

duty ; while an octroi, even where it escapes this character, offers unlimited opportunity for leakage of revenue, and frequently operates to hamper and restrict trade. On the other hand, indirect taxation of this kind is undoubtedly the least unpopular form of taxation with the Indian public ; and its replacement by direct taxation yielding equivalent proceeds would be a matter of grave difficulty. These points will be borne carefully in mind when the question is investigated. If, however, either terminal tax or octroi is retained as a legitimate means of local taxation, it will be essential to reserve to the central Government well-defined powers of direction and control. There are three main purposes to be served by such control. In the first place, the central Government must preserve for itself the possibility of preventing the imposition of a tax which will trench upon a central source of revenue, though control in such cases should not be exercised with undue rigidity ; secondly, the powers of local authorities to tax the central Government itself must be strictly limited ; thirdly, there must be authority to forbid the imposition of taxation which would be contrary to the obligations undertaken by the central Government in commercial treaties. With regard to the third of these points attention is invited to paragraph 17 of the memorandum relating to financial relations between the Government of India and the provincial governments which was prepared by the Government of India for the Indian Statutory Commission.

APPENDIX IX.

MEMORANDUM BY THE GOVERNMENT OF INDIA, FINANCE DEPARTMENT, DATED THE 11TH JULY 1930, ON THE FINANCIAL ASPECTS OF THE SEPARATION OF BURMA.

	PARAS.
I.—Effect on revenue and expenditure of the Government of India	1—8
II.—Effect on currency arrangements	9—14
III.—Miscellaneous	15
ANNEXURE I.—Effect on Government of India revenue from duty on silver.	
ANNEXURE II.—Memorandum on paragraphs 6—9 of Appendix to Part VIII of the Commission's report.	

I.—*Effect of separation on the revenue and expenditure of the Government of India.*

In paragraph 222 of their report the Commission say :—

> " Though the actual settlement between the two countries must be determined by subsequent negotiations, we are here concerned to note and endorse Sir Walter Layton's general conclusion that separation could fairly be effected in such a way as to do no financial injury to either country and to leave Burma with adequate resources for her present needs and a balance for development purposes in excess of that which she obtains to-day ".

The conclusions arrived at by Sir Walter Layton, and the various assumptions made by him, are examined in the following paragraphs :—

2. In paragraph 3 of the appendix Burma's contribution to defence has been put at 3 crores, and it has been assumed that the whole amount of this contribution will be a deduction from India's military expenditure. The amount taken seems reasonable, but naturally it is only a rough estimate and the actual contribution fixed may be very different. Moreover, it is not certain that the whole of Burma's expenditure on defence will be a deduction from India's army expenditure, though, if the arrangements contemplated in paragraph 221 of the Commission's report are made, this will be the case. The Burma Government in paragraph 16 of the memorandum on separation which they prepared for the Commission put the contribution for defence at 123 lakhs, *i.e.*, roughly the actual expenditure

now incurred in Burma. Clearly, the estimate of the Burma Government is too low, but it is possible that Sir Walter Layton's estimate will prove to be too high. In any case the figure of 3 crores is problematical, and the possibility of a lower figure has to be contemplated in considering the effect on the Government of India finances.

3. In paragraph 4 of the appendix Sir Walter Layton puts Burma's share of India's debt at 30 to 35 crores with a net interest and sinking fund charge of approximately 2 crores a year. Nothing is said about the capital expenditure in Burma, *e.g.*, the capital at charge of the Burma railways, the idea being apparently that the Burma Government would take over the capital commitments of the Government of India in Burma on terms which would involve no loss to India. The Burma Government in their memorandum on separation put Burma's share of the unproductive debt of India at 24 crores and assumed an annual payment of 122 lakhs to cover interest and sinking fund charges. There, again, the figure of 2 crores is problematical, and the possibility of a lower figure has to be contemplated.

4. On the revenue side, Sir Walter Layton makes the following assumptions :—

(*a*) Indo-Burmese trade will become subject to existing customs duties with certain exceptions noted below.

(*b*) India will impose a duty on kerosene imported from Burma at the same rate as on kerosene imported from other countries, and an import duty of 4 annas on motor spirit imported from Burma. (The financial effect of this is worked out on 1928-29 figures but allowance is made for the reduction effected in the last budget in the import duty on kerosene at the end of paragraph 10.)

(*c*) Burma will repeal protective import duties now in force.

(*d*) Burma will impose the existing export duty on rice sent to India. (The figure of 60 lakhs given in paragraph 7 should be reduced to 45 lakhs on account of the reduction in export duty in the last budget.)

These assumptions are reasonable, but it is possible that the tariff arrangements between India and Burma will be different and that Indian revenues may suffer more than is estimated.

5. To complete the picture one further assumption has to be made, *viz.*, that India would impose an import duty of 4 annas an ounce on silver imported from Burma. Annexure I to this memorandum shows that if this is done, the Government of India revenue from duties on silver will be practically unaffected, while the Government of Burma would obtain very little from an import duty or an excise duty on silver.

6. Nothing is said by Sir Walter Layton about the loss on the working of the posts and telegraphs in Burma. The loss in Burma would be about 5 lakhs per annum and the deficit on the working of the Government of India posts and telegraphs would be decreased by a corresponding amount. As regards railways, the annual gain to the Burma Government will be about 50 lakhs as against 25 lakhs

assumed by Sir Walter Layton. The railway revenues of the Government of India would also a corresponding amount, but assuming that the present arrangements for contributions from railway revenues remained unchanged, the effect on general revenues would not be large.

7. From paragraph 11 of the appendix it is clear that Sir Walter Layton realizes that his assumptions may be wide of the mark, for he indicates that India may lose by the separation. In these circumstances the Finance Department consider that it would not be safe to accept at present the Commission's finding that separation could fairly be effected in such a way as to do no financial injury to India. They would, however, go so far as to say that separation could fairly be effected in such a way that the revenue loss to India would not be of sufficient magnitude to make it a factor of great importance in considering the *pros* and *cons* of separation. It is fairly clear that a special committee will have to be appointed to work out the details of the financial settlement.

8. The Finance Department accept the views of the Commission on Burma's credit in the event of separation given in the second half of paragraph 222 of the report.

II.—*Effect of separation on currency arrangements.*

9. If Burma is separated from India, the adoption of a different currency system by Burma has to be contemplated. The Government of Burma might adopt one of the three following courses :—

(*a*) They might retain the Government of India currency in the same way as Iraq up to the present has used the Government of India currency. In view of the close trade connection between Burma and India, and the fact that the people of Burma are accustomed to the rupee currency, there would be a good deal to be said in favour of this course. It is possible, however, that the Burma Government will favour a currency system which would be semi-dependent on the Indian currency system as suggested in (*b*) below or completely independent of the Indian currency system.

(*b*) The Government of Burma might adopt a system similar to that of Ceylon which is briefly that the rupee is the monetary unit and its exchange value is the same as in India, namely, 1*s.* 6*d.*, but the Ceylon Government has its own note issue and its own subsidiary coin. Definite information is not available regarding the reserves kept by the Ceylon Government against this note issue, but the reserve is presumably composed partly of silver rupees and partly of securities of the Government of India, though there may be securities of the Ceylon Government in addition. Such a system would avoid a definite break with the past, and would retain the rupee as the standard coin—a point which might be of considerable importance, especially in the backward tracts.

It would also avoid exchange fluctuations between Burma and India and would, therefore, tend to facilitate trade.

(*c*) The currency system of Burma might be completely separated from the currency system of India, and although it is probable that the Government of Burma would have a coin corresponding to the rupee as the monetary unit, and that the exchange value of the monetary unit would be 1*s.* 6*d.*, the Government of Burma or a bank to whom they might entrust the work would be responsible for maintaining the exchange value of the monetary unit quite independently of the Government of India.

10. If either of the alternatives in paragraphs 9 (*b*) and 9 (*c*) were adopted, Indian currency now in circulation in Burma would be replaced by currency issued under the authority of the Burma Government and would have to be repatriated. The arrangements for this repatriation would depend on the system adopted by the Government of Burma, and it is necessary to examine briefly what these arrangements should be.

11. If a system on the lines indicated in paragraph 9 (*b*) above were adopted, all the subsidiary coin and the notes now in circulation in Burma would be replaced by new subsidiary coin and new notes. If no special arrangements were made, these subsidiary coin and notes could be shipped to India, and full currency value could be obtained for them. Such a procedure would not be fair to India for the reasons given below. As there are essential differences in the position regarding the subsidiary coin and the position regarding the notes, they will be dealt with separately :—

(*a*) *Subsidiary coin.*—As the profit on the issue of nickel and copper coin is taken to revenue in the year in which it is issued, the profit on the nickel and copper coin now in circulation in Burma has already been credited to the revenues of the Government of India and has been used for the common purposes of India and Burma. The profit on the coinage of small silver coin is dealt with in the same way as the profit on the coinage of silver rupees. In paragraph 12 (*a*) below it is shown that no profit has accrued to the Government of India on the coinage of silver apart from sums that have already been taken to revenue. It would be unfair to India if the Government of Burma were to withdraw subsidiary coin from circulation, obtain its full currency value from the Government of India, and issue in its place a fresh subsidiary coinage on which they would make a large profit, while the Government of India would lose a corresponding amount on the subsidiary coin withdrawn from circulation. The most, therefore, that the Government of Burma would be entitled to demand from the Government of India would be that the Government of India should supply to the

Government of Burma new subsidiary coinage in exchange for the subsidiary coinage withdrawn from circulation. In other words, the Government of Burma could either have their new subsidiary coinage executed at a Government of India mint free of charge, or they could demand the bullion value of the subsidiary coinage withdrawn from circulation *plus* the cost of recoining it.

(*b*) *Notes.*—As the profit on the note issue is a recurring item, the Government of Burma would be entitled to payment for the full exchange value of the notes repatriated, and the main question to be settled would be the form which this payment should take. Assuming that the reserve maintained by Burma would consist of rupees and securities of the Government of India, it would be a simple matter to make payment in these forms in the proportion which might be desired by Burma. If it were decided that a part of the reserve should be held in securities of the Government of Burma, then to this extent payment for notes repatriated might take the form of a decrease in the amount of the debt of the Government of Burma to the Government of India.

12. If the Government of Burma were to adopt a completely independent currency system on the lines indicated in paragraph 9 (*c*) above, rupees would have to be repatriated in addition to subsidiary coin and notes. The position regarding the subsidiary coin would be the same as that indicated in paragraph 11 (*a*) above ; rupees and notes are dealt with below :—

(*a*) *Silver rupees.*—The profit on the coinage of silver coin which has accrued since the gold exchange standard was established, has been credited to the gold standard reserve. During the last few years the interest on the gold standard reserve has been taken to revenue, and in so far as the interest on the gold standard reserve has been taken to revenue, Burma has already shared in the advantages obtained from the profits on the coinage of the rupees. The present position is that although we have incurred large losses on the sale of silver obtained from melted coin and these losses have not been debited to the gold standard reserve, the amount of the gold standard reserve is not sufficient to cover the difference between the bullion value and the exchange value of the silver held in the paper currency reserve. As the gold standard reserve does not cover our prospective losses on the sale of silver, it may be said that apart from interest on the gold standard reserve already credited to revenue no profit has accrued from the coinage of silver, and that a loss will probably eventuate. The most, therefore, that the Government of Burma would be entitled to demand from the Government of India would be the bullion value of the rupees withdrawn from circulation and repatriated *plus* the cost

of coinage of the currency which would replace these rupees.

(*b*) *Notes.*—Although Burma would be entitled to payment for the full exchange value of repatriated Government of India notes, there would clearly have to be made a definite arrangement as to the form in which this payment should be made. Otherwise the Burma Government might ship these notes to India, buy sterling with them and obtain full sterling cover for their new note issue at the expense of the sterling reserves of the Government of India. A fair arrangement would seem to be that the Burma Government should be paid in sterling an amount which would bear the same proportion to the total amount payable as the sterling and gold reserves of the Government of India (including the gold standard reserve) bear to the total note issue of the Government of India. Such an arrangement would give the Burma Government the same proportionate sterling cover for their note issue as was held by the Government of India, and as there would be a reduction in the Government of India note issue corresponding to the amount of the new Burma Government issue, the Government of India's holding of gold and gold securities would not be proportionately diminished. The remainder of the amount due to the Burma Government might be paid partly in the form of silver if the Burma Government desired to have silver, and if not, wholly in the form of a reduction of the amount of the debt of the Government of Burma to the Government of India.

13. From the above brief outline it is clear that one of the conditions of the separation of Burma from India should be an arrangement which would safeguard the interests of India in the event of Burma adopting a new currency system. It is not easy to devise a formula which could be included in the legislation which will presumably deal with the separation of Burma, but a safeguarding clause on the following lines might be sufficient :—

> " If the Government of Burma adopts a new currency system, payment by the Government of India to the Government of Burma for Indian currency withdrawn from circulation in Burma and repatriated to India shall be limited to an amount which will represent the cost to the Government of Burma of replacing the currency withdrawn from circulation and shall be made in such a manner that the gold and sterling reserves of the Government of India would not be proportionately weakened."

Presumably, the Act would name some authority, probably the British Government, as the authority to decide differences between the Government of India and the Government of Burma which might arise in carrying out the provisions of the Act, and this authority would have to be the authority to decide the extent and the form of

payments to be made by the Government of India to the Government of Burma for currency repatriated.

14. In the above paragraphs the assumption has been made that the currency arrangements in India remain as at present. In the event of the Government of India note issue being replaced by a reserve bank issue before a new currency system is introduced in Burma, special arrangements regarding Burma would probably have to be made at the time of handing over the note issue to the reserve bank. Whatever currency system might eventually be adopted by Burma, presumably no change would be made until some time after separation was effected. During this period the Indian Currency Act and Indian Coinage Act would have to apply to Burma.

III.—*Miscellaneous.*

15. Some of the more important questions which the Finance Department will have to consider, if it is decided to separate Burma from India, are dealt with below :—

(1) *Ways and means.*—Presumably, the Burma Government would arrange with the Imperial Bank of India to conduct their business on much the same lines as the bank now conducts the business of the Government of India. The Burma Government would take over control of the resource work at treasuries, where the Government of India should probably arrange to maintain currency chests as long as Burma used Indian currency.

(2) *Government of India securities held in Burma.*—At present a considerable volume of Government of India securities are held in Burma, and interest is payable at any treasury in Burma. Clearly, it is desirable that Burma holders of Government of India securities at the time of the separation should have the same facilities for drawing the interest as they now have, and it would be desirable to arrange with the Government of Burma for the continuance of these facilities, at any rate as regards securities held in Burma at the time of the separation, though it will probably be undesirable to allow further transfers from India to Burma. The Government of Burma could be given a commission on the amount of interest paid.

(3) *Post office cash certificates.*—On separation, presumably the issue of Government of India post office cash certificates in Burma would cease, and the Government of Burma would issue certificates of their own. As, however, the certificates previously issued would represent an obligation of the Government of India, and as it would be a very complicated matter for the Government of Burma to attempt to take over this obligation, an arrangement would have to be arrived at by which the Burma Government would arrange for the payment of the certificates as they mature at their post offices and debit the amounts to the Government of India. Probably they would have to be given a commission for this service.

(4) *Post office savings bank deposits.*—In this case the simplest method of procedure probably would be for the Burma Government to take over the savings bank deposits from the Government of India, the debt of the Government of Burma to the Government of India

being reduced accordingly. It might be said that the depositors would have reason to complain of such a transfer, because their deposits would be transferred from an institution backed by the credit of the Government of India to an institution backed only by the credit of the Government of Burma. This difficulty could be got over by giving depositors notice some time in advance that their deposits were to be transferred, so that they would have an opportunity of withdrawing them if they desired to do so.

(5) *Provident fund deposits.*—Presumably, the provident fund deposits belonging to officers of the Burma Government and any officers of the central Government which may be transferred to the Burma Government would be taken over by the Government of Burma, who would also take over the incidental liabilities. The total amount of deposits would be presumably deducted from the debt of the Government of Burma to the Government of India.

(6) *Other deposits.*—At present all deposits received in Burma are taken into the balance of the Government of India. Presumably, the Burma Government would take over these deposits with the incidental liabilities.

(7) *Family pension funds.*—Presumably, officers serving under the new Burma Government would not be eligible to subscribe to the family pension funds now administered by the Government of India, but the Government of Burma would start similar funds of their own. Arrangements would have to be made to transfer officers' subscriptions from the Government of India funds to the new funds of the Government of Burma with probably a contribution from the Government of India to cover the period during which the officer was in the service of the Government of India. Here, again, the total amount transferred could be taken in reduction of the debt of the Government of Burma to the Government of India.

(8) *Income-tax.*—Most of the trade in Burma is conducted by Indian or European firms which are at present assessed to tax either in Burma or in India on the total income from their operations in both countries. The question of double income-tax will, therefore, be of considerable importance.

(9) *Staff.*—The conditions on which the Government of India's staff employed in Burma will be taken over by the Government of Burma will have to be worked out in detail.

(10) *Railways.*—The terms on which the Burma railways will be taken over will have to be worked out very carefully. They are the most profitable portion of the Government of India railway system, and even if it is decided that the Burma Government should take in future the full profits regardless of losses which may have occurred in the past, *i.e.*, that they would merely have to pay to the Government of India the capital at charge on these railways, the rate of interest which the Government of Burma should pay to the Government of India on the capital at charge will be difficult to determine, as the capital has been raised over a period of years at different rates of interest.

(11) *Posts and telegraphs.*—The terms on which the assets of the Posts and Telegraphs Department will be taken over by the Burma Government will have to be worked out in detail.

(12) *Government of India lands and buildings.*—Here again a difficult question will arise as to the terms on which the lands and buildings at present in possession of the Government of India should be handed over to the Government of Burma.

ANNEXURE I. (*See* para. 5.)

Production of silver in Burma.

(In thousands of fine ounces.)

1924	5,288
1925	4,832
1926	5,104
1927	6,004
1928	7,405
1929	7,290

Exports of silver from Burma.

——	India.	Straits Settlements.	Federated Malay States.	Mauritius.	Total.
1924-25	5,430	..	..	..	5,430
1925-26	4,791	15	16	..	4,822
1926-27	4,627	41	56	..	4,724
1927-28	6,411	18	37	..	6,466
1928-29	7,548	32	39	344	7,963

Imports of silver into Burma.

——	India.	United Kingdom.	Hong Kong.	Federated Malay States.	Total.
1924-25	..	..	..	..	..
1925-26	..	3	..	7	10
1926-27	2	..	..	..	2
1927-28	9	72	19	..	100
1928-29	5	4	..	..	9

It will be seen from the above figures that the imports of silver into Burma are negligible, and that almost the whole of the silver produced in Burma is exported. As figures of production by official years are not available, it is not possible to calculate the actual amount of silver consumed in Burma, but the above figures show

that the amount is very small. In the circumstances the Government of Burma will not find it profitable to impose import and excise duties on silver.

So far as India is concerned, if India levies an import duty of 4 annas an ounce on silver imported from Burma, the Government of India will lose very little as almost the whole amount of the silver produced in Burma is exported to India. The Government of India will lose only the excise duty on silver consumed in Burma, but the figures show that this amount is negligible.

ANNEXURE II.

MEMORANDUM ON PARAGRAPHS 6 TO 9 OF APPENDIX TO PART VIII OF THE STATUTORY COMMISSION'S REPORT. *(Pages 282 to 284.)*

Separation of Burma and customs revenues.

This memorandum deals with the effect of levying import duties in Burma and in India on Indo-Burmese trade. The trade in kerosene and petrol is excluded from this examination. Sir Walter Layton's estimate is that Burma will obtain 116 lakhs from import duty on goods from India, and that India will obtain 25 lakhs from import duty on goods from Burma (paragraph 9 of the appendix, pages 283 and 284). This estimate is based on the assumption that the existing import duties will be applied at both ends (paragraph 7).

2. Four statements are attached :—

(I) Imports of Indian merchandise into Burma.

(II) Imports of foreign merchandise into Burma from India.

(III) Imports of Burmese merchandise into India from Burma.

(IV) Imports of foreign merchandise into India from Burma.

[redacted]ese statements represent the trade for 1928-29, and are taken from [redacted]bles 7 to 10 in Part II (pages 219—267) of the sea-borne trade [redacted]d navigation of Burma for 1928-29 (the latest volume available). [redacted]n each statement the total trade is divided into three groups :—

Free goods,

Goods at special rates of duty,

Goods dutiable at 15 per cent. *ad valorem.*

Deductions have then been made for the intra-provincial trade, *i.e.*, between ports within the province of Burma, and the duty leviable at existing rates on the trade between Burma and India has been estimated.

3. The result of the estimate may be displayed in the following statement :—

	Lakhs.
Duty payable in Burma—	
Indian merchandise	290
Foreign merchandise	24
Total duty ..	314
Duty payable in India—	
Burmese merchandise	95
Foreign merchandise	8
Total duty ..	103

The trade in foreign merchandise will be affected in quite a different way from that in indigenous products. Foreign merchandise, which now goes to Burma from India, has already paid duty in India. In future part will go direct, and the greater part of the remainder will be shipped under claim for drawback, and in either case India will lose the duty. To be on the safe side it would be as well to treat the duty as a debit to Indian revenues, and similarly to debit Burma's revenues with the duty leviable in India on foreign merchandise exported from Burma. We thus obtain the following result :—

	Burma.	India.
Gain	314	103
Loss	8	24
Net gain ..	306	79

4. This result assumes that the trade will remain at its present level. Naturally some depression will follow the imposition of duties, but it is difficult to see how the effect can be as great as is suggested in Sir Walter Layton's figures. A gain to Burma of 240 lakhs and to India of 60 lakhs would not be an extravagant estimate. Sir Walter Layton's figure of 116 lakhs for the gain to Burma is the Burma Government's own estimate, and it has been ascertained that this was merely intended as a safe guess calculated in the following manner. The average duty on imports of foreign goods into Burma in 1926-27 was 17 per cent. An average duty at the guess figure of 8 per cent. (on roughly half the above amount) on Indian goods imported into Burma would yield on the 1926-27 imports 116 lakhs.

5. In dealing with India's customs revenues from existing sources, a flat rate of 2 annas for kerosene has been assumed. Sir Walter Layton, writing no doubt before the introduction of the 1930-31 budget, has taken 2½ annas. At the 2-anna rate for kerosene the gross gain to India will be—

	Lakhs.
Existing excise	190
Additional rate on kerosene	56
Nett duty on other imports from Burma	60
	306

against Sir Walter Layton's figure of 326 lakhs. At the present rate of customs duty on kerosene (2¼ annas) India would gain 334 lakhs. On the other hand, this estimate gives a gain to Burma of 997 lakhs against Sir Walter Layton's figure of 873 lakhs.

I.

Coasting imports into Burma—Indian merchandise—Values and duty in lakhs.

—	Gross.	Intra-provincial trade.	Net India-Burma.	Duty.
Total ..	1,543	141	1,402	..
Free goods.				
Animals	3	..	3	..
Books	3	..	2	..
Grain, pulse and flour	134	18	116	..
Hides and skins	1	1	..	..
Machinery	1	..	1	..
Manures	1	..	1	..
Total free ..	142	19	123	..
Total dutiable ..	1,401	122	1,279	..
Articles at special rates.				
Coal	111	..	111	3
Fish, salted	17	..	17	1
Fodder	2	2	..	..
Matches	4	3	1	1
Tobacco	130	9	121	130
Toys	3	..	3	1
Total at special rates ..	267	14	253	136
Ad valorem at 15% ..	1,134	108	1,026	154
Total duty ..	..	..	..	290

II.

Coasting imports into Burma—Foreign merchandise—Values and duty in lakhs.

——	Gross.	Intra Provincial.	Net India-Burma.	Duty.
Total ..	193	84	109	..
Free goods.				
Books	1	..	1	..
Dyes	2	..	2	..
Machinery	15	4	11	..
Total free ..	18	4	14	..
Total dutiable ..	175	80	95	..
Dutiable at special rates.				
Liquors	5	2	3	3
Matches	2	1	1	1
Tobacco	11	4	7	7
Total ..	18	7	11	11
Ad valorem at 15% ..	157	73	84	13
Total duty ..	..	..	..	24

III.

Coasting exports from Burma—Burmese merchandise—Values and duty in lakhs.

——	Gross.	Intra Provincial.	Net Burma-India.	Duty.
Total ..	3,317	117	3,200	..
Kerosene and petrol	885	15	870	..
Total excluding kerosene and petrol	2,432	102	2,330	..

——	Gross.	Intra Provincial.	Net Burma-India.	Duty.
Free goods.				
Grain, pulse and flour	1,760	9	1,751	..
Hides and skins	8	..	8	..
Stick lac	51	..	51	..
Cotton, raw	1	..	1	..
Total free ..	1,820	9	1,811	..
Total dutiable excluding kerosene and petrol	612	93	519	..
Dutiable at special rates.				
Fodder	2	1	1	..
Matches	18	2	16	13
Lubricating oil	34	..	34	3
Tobacco	21	9	12	8
Total (excluding kerosene and petrol) dutiable at special rates ..	75	12	63	24
Ad valorem at 15% ..	537	81	456	71
Total duty (excluding kerosene and petrol)	..	..	..	95

IV.

Coasting exports from Burma—Foreign merchandise—Values and duty in lakhs

——	Gross.	Intra Provincial.	Net Burma-India.	Duty.
Total ..	122	75	47	..
Free goods.				
Machinery	5	4	1	..
Total free ..	5	4	1	..
Total dutiable ..	117	71	46	..

——	Gross.	Intra Provincial	Net Burma-India.	Duty.
Dutiable at special rates.				
obacco	3	2	1	1
Total at special rates ..	3	2	1	1
Ad valorem at 15% ..	114	69	45	7
Total duty ..	..	..	..	8

LIST OF ENCLOSURES.*

1. Letter to all local Governments of Governors' Provinces (except Burma), No. F.-67/30-R., dated the 24th June 1930.
2. Letter to the Chief Secretary to the Government of Burma, No. F.-67/30-R., dated the 24th June 1930.
3. Letter to the Registrar, High Court, Calcutta, Appellate Side, No. F.-67/30-R., dated the 24th June 1930.
4. Letter to the Chief Commissioners, Coorg, Baluchistan, Delhi, Ajmer-Merwara, No. F.-67/30-R., dated the 24th June 1930.
5. Letter to the Chief Commissioner, North-West Frontier Province, No. F.-108/30-R., dated the 2nd August 1930.
6. Letter from the Government of Madras, No. 978, dated the 11th August 1930.
7. Letter from the Government of Bombay, No. 1/161, dated the 13th August 1930, and enclosures.
8. Note by His Excellency the Governor of Bombay.
9. Telegram to the Government of Bombay, No. 2940-S., dated the 31st August 1930.
10. Telegram from the Government of Bombay, dated the 7th September 1930.
11. Letter from the Government of Bengal, No. 219-A.C., dated the 15th August 1930, and enclosures.
12. Letter from the Government of Bengal, No. 222-A.C., dated the 22nd August 1930, and enclosures.
13. Letter from the Government of the United Provinces, No. 4949-C., dated the 23rd August 1930, and enclosures.
14. Letter from the Government of the Punjab, No. 4706-S. Reforms, dated the 14th August 1930, and enclosures.
15. Letter from the Government of the Punjab, No. 6504-S. Reforms, dated the 16th September 1930, and enclosures.
16. Letter from the Government of Burma, No. 392-D.-30, dated the 13th August 1930.
17. Letter from the Government of Bihar and Orissa, No. 4368-A.R., dated the 23rd August 1930, and enclosure.
18. Letter from the Government of the Central Provinces, No. R.-15-IV, dated the 12th August 1930.
19. Letter from the Government of Assam, No. Rfm.-8/8801-A.P., dated the 12th August 1930.
20. Letter from the Chief Commissioner, Delhi, No. 7131-Home, dated the 8th August 1930.
21. Letter from the Chief Commissioner, Coorg, No. 2852/11-28, dated the 4th September 1930.
22. Letter from the Chief Commissioner, North-West Frontier Province, No. 3305-P., dated the 28/29th August 1930, and enclosure.
23. Letter from the Chief Commissioner, Baluchistan, No. 3614-P., dated the 14th August 1930.
24. Letter from the Chief Commissioner, Ajmer-Merwara, No. 45-C./111-C.C./30, dated the 15th August 1930, and enclosure.

* Printed in a separate volume.

25. Letter from the Registrar, High Court, Calcutta, No. 11741-G., dated the 18th July 1930.

(8399—3) Wt. 16868—931 2650 10/30 P. St. G. 3

EAST INDIA (CONSTITUTIONAL REFORMS).

Despatches from Provincial Governments in India containing Proposals for Constitutional Reform.

Presented by the Secretary of State for India to Parliament by Command of His Majesty, November, 1930.

LONDON:
PRINTED AND PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE.
To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
Adastral House, Kingsway, London, W.C.2; 120, George Street, Edinburgh;
York Street, Manchester; 1, St. Andrew's Crescent, Cardiff;
15, Donegall Square West, Belfast;
or through any Bookseller.

1930.

Price 5s. 0d. net.

Cmd. 3712.

TABLE OF CONTENTS.*

	PAGE.
Government of India's letters to local Governments, etc., asking for views on Indian Statutory Commission's Report	2-3
Views of Government of Madras	4-26
Views of Government of Bombay	27-47
Views of High Court of Bombay	47
Note by His Excellency the Governor of Bombay	47-51
Views of Government of Bengal and appendices	52-92
Views of High Court, Calcutta	93
Views of United Provinces Government and appendices	94-15
Views of Government of Punjab	153-237
(1) Official Members	153-198
(2) Non-Omcial Members	199-237
Views of Government of Burma	238-254
Views of Government of Bihar and Orissa	255-288
Views of Government of Central Provinces...	289-301
Views of Government of Assam	302-331
Views of Chief Commissioner, North-West Frontier Province	332-336
Views of Chief Commissioner, Ajmer-Merwara	337-341
Views of Chief Commissioner, Delhi	342
Views of Chief Commissioner, Baluchistan	343-344
Views of Chief Commissioner, Coorg	345-347
Views of Government of Bengal on the financial proposals of Sir Walter Layton	348-360

* The despatches contained in this volume form the enclosures to the Government of India's Despatch, dated 20th September, 1930, which has been published in a separate volume.

From the Government of India to all Local Governments of Governors' Provinces (except Burma), No. F. 67/30-R., dated the 24th of June, 1930.

I am directed to address you on the subject of the recommendations contained in the report of the Indian Statutory Commission.

2. As the Government of Madras, &c., are aware, the Indian Constitutional Conference in London is to be held on or about the 20th of October, 1930. It is essential that the Government of India, after considering the views of local Governments should submit their own advice to His Majesty's Government on a date not later than the 13th September, 1930. In order that they may be able to do so the Government of India desire to be in possession of the recommendations of local Government not later than the 15th of August, 1930. The Government of India will, therefore, be glad if the Government of Madras, &c., will furnish the Government of India with their views at the earliest date before the 15th of August convenient to them.

3. The recommendations of the Indian Statutory Commission are contained in Volume II of their report. I am to invite the Government of Madras, &c., to express their views on any of the recommendations which appear to have a direct interest for them. I am also to indicate particular matters which must obviously engage their attention. These particular matters are the recommendations contained in :—

Part I, Chapters 2 and 5;
Part II.
Part III, Chapter 2.
Part IV, Chapters 1 and 4.
Part VIII.
Part IX. and
Part X.

(As the recommendations contained in Part X of the Report affect the position of the various High Courts, the Government of India will be glad if the Government of Madras, &c., will obtain the views of the Madras, &c., High Court on these recommendations and communicate them to the Government of India).

4. As it is the intention of the Government of India to submit to His Majesty's Government the views of local Governments along with their own, it will be convenient if views are expressed in broad outline without over-elaboration of detail. It would greatly facilitate the examination and consideration of the opinions submitted by the local Government if, so far as is possible, they are arranged in the order in which the subjects are dealt with in the report.

5. Finally, I am to say that the Government of India would be glad if the Government of Madras, &c., would include in their report to this reference an estimate of the reception which the recommendations of the Commission have received in the Province.

From the Government of India to the Chief Secretary to the Government of Burma, No. F. 67/30-R., dated the 24th of June, 1930.

I am directed to forward, for the information of the Government of Burma, a copy of a letter No. F. 67/30-R., dated the 24th of June, 1930, addressed to other local Governments on the recommendations of the Indian Statutory Commission. It will be seen that the Government of Burma are concerned particularly with Part VI of Volume II of the Report and the appendix to Sir Walter Layton's Report (Part VIII). I am to request that the views of the local Government on the recommendations contained in these parts of the Report may be submitted to the Government of India at the earliest date, not later than 15th of August, 1930, convenient to the Government of Burma.

2. I am also to invite an expression of any views which the Government of Burma may desire to make on the other recommendations of the Commission.

From the Government of India to the Registrar, High Court, Calcutta, Appellate Side, No. F. 67/30-R., dated the 24th of June, 1930.

Subject : Centralization of High Courts.

I am directed to refer to Part X, Volume II of the Report of the Indian Statutory Commission on the subject mentioned above, and to say that the Government of India would be glad to receive the views of the Honourable the Chief Justice and Judges on the recommendations contained therein. I am to request that a reply to this letter may be sent so as to reach the Government of India not later than the 20th of July, 1930.

2. I am to request that a copy of the High Court's reply be communicated to the Government of Bengal.

From the Government of India to the Chief Commissioner, Coorg, Baluchistan, Delhi and Ajmer-Merwara, No. F. 67/30., dated the 24th of June, 1930.

I am directed to address you on the subject of the proposals in so far as they affect your province contained in Part III of Volume II of the report of the Indian Statutory Commission. I am to request that your views may be communicated to the Government of India not later than the 15th of August, 1930.

MADRAS GOVERNMENT.

From the Additional Secretary to the Government of Madras, Public Department, to the Secretary to the Government of India, Reforms Office, No. 978, dated Stonehouse Hill, the 11th August. 1930.

I am directed to reply to letter No. F. 67/30-R., dated the 24th June, 1930, from the Joint Secretary to the Government of India, Reforms Office, to the Chief Secretary to the Government of Madras, in which the Government of India ask for the views of this Government on the recommendations made by the Indian Statutory Commisson.

2. At the outset I am to say that these recommendations have been considered by His Excellency the Governor with his Executive Council and Ministers sitting together and that the views expressed in this letter are the views of the Government as a whole.

Part I of the Report.—General Principles.

3. The Madras Government in the Memorandum which they submitted to the Commission expressed their conviction that the ultimate form of Government in India must be a federation which the Indian States can enter freely, and that to achieve this object the powers of the Central Government must be carefully defined and limited and all residual powers left to the component Provinces and States. The Commission accepts the view that the ultimate constitution of India must be federal; and in so far as their proposals involve a reorganization of British India on a federal basis, they are in accord with the views already expressed by the Government of Madras.

4. The Commission lays down two other general principles, viz. (1) that the new constitution should, as far as possible, contain within itself provision for its own development, and (2) that throughout the period during which India is progressing on the road to complete self-government there must be full provision made for the maintenance and efficiency of the fundamentals of Government, especially for defence, for internal security, and for the protection of minorities. Broadly speaking the Madras Government accept both these principles and agree with them entirely in their application to the Provincial Government; but they cannot offer any opinion of real value upon the Commission's proposals regarding the Central Government, for they have not sufficient experience of the working of that Government.

PART II.—THE GOVERNOR'S PROVINCES.

Chapter I.—The Provincial Executive.

5. The first recommendation which the Commission makes in this part of its report relates to the need for a readjustment and redistribution of provincial boundaries and areas. The Madras Government have already expressed the opinion that the question of political reform should not be hampered with proposals for the rearrangement and regrouping of existing provinces. They still consider that the appointment of a Boundaries Commission with power to investigate every demand for the division of a province on linguistic lines must inevitably delay the introduction of political reform; for it is only after the number and size of the provinces have been determined, that proposals can be evolved for their political constitution; the two processes cannot be undertaken simultaneously. The Madras Government are therefore against the appointment of a commission with authority to examine all cases in which demands have been made for the breaking up of existing provinces; but they would have no objection to the appointment of a commission whose functions were strictly limited to making minor adjustments of territory. This commission, if it is to be appointed, should get to work with as little delay as possible, so that it may complete its inquiry before the times comes to work out the details of the new constitution. I am to add that this Government consider that the present provisions of the Government of India Act with regard to the constitution of new provinces [section 52-A (1)] and the alteration of boundaries of provinces (section 60) should be retained.

6. As regards the Provincial Executive, the Government of Madras accept in the main the proposals made by the Commission, which differ very little from those put forward by this Government. They agree that the division into reserved and transferred subjects should disappear, and that all subjects alike should be in the common category of provincial subjects. They agree that the provincial cabinet should be unitary and jointly responsible to the legislature; and they also agree that Ministers' salaries should be fixed by an Act of the legislature, and should not be liable to reduction or denial by a vote in supply. While, however, the Commission would not insist upon there being a Chief Minister, the Madras Government consider that it is necessary that there should always be a Chief Minister; and they would provide that no person other than an elected member of the legislature should be appointed to the Ministry except on the recommendation or with the consent of the Chief Minister; other Ministers should be appointed on the Chief Minister's recommendation. The Madras Government consider that the Governor should not ordinarily preside over a meeting of the Cabinet but that he should have the right to do so in excep-

tional circumstances. He should be supplied with notices of meetings and the agenda of business, and a transcript of the proceedings should be sent to him after each meeting. The Madras Government agree with the Commission that the Governor should have the power to suspend any decision of the Cabinet pending its reconsideration at a subsequent meeting.

7. The appointment of an official as Secretary to the Cabinet was recommended by the Government of Madras in the Memorandum which they submitted to the Commission; but the Commission in commending the suggestion thinks that it ought not to be expressed in mandatory or statutory form. This Government are still of the opinion that the appointment is necessary. The Secretary should be appointed by the Governor; he should be under the control of the Chief Minister; and, in order to prevent any suspicion or mistrust either between the Ministers and the Governor or between the Ministers and the Secretary, he should not have direct access to the Governor without the knowledge of the Chief Minister. They would further suggest that as it is essential that the Governor should be kept informed not only of the legislation which is proposed but also of the work of administration, the Secretary to the Cabinet should be kept informed by the Secretaries of the various departments of all important administrative proposals.

8. The Government of Madras accept the recommendations of the Commission as to the powers which should be given to the Governor on the administrative side to over-rule his Cabinet. They would suggest that the wording of clause (1) in paragraph 50 of the Report should be brought into agreement with that of the Government of India Act by the addition of the words " or of any part thereof " after the word " province." The Government also accept the recommendations of the Commission with regard to the powers to be given to the Governor to deal with a state of emergency.

9. The Commission's recommendation regarding the transfer of " Law and Order " is in accordance with the proposals made by this Government and is acceptable to them.

Chapter 2.—The Provincial Legislature.

10. This Government accept the Commission's recommendation that the maximum life of the provincial councils should be extended to five years. They agree generally with the Commission's proposals regarding the size of provincial councils; they would, however, observe that the exact size of the council must depend upon the extent to which the franchise is widened, and that it should be an instruction to the Franchise Committee to make proposals for the strength of the provincial councils.

11. In the matter of communal representation, the Madras Government agree with the Commission that for *Muhammadans*

separate electorates must continue until the Muhammadans themselves agree to surrender the privilege. The Madras Government also agree that there is no need to continue to reserve seats for *Non-Brahmans* in Madras.

12. The Commission's proposal for the representation of the *Depressed classes* by the reservation of seats in general constituencies is, in the opinion of the Madras Government, impracticable; it must involve large constituencies; the election of the representatives of the depressed classes will be made mainly by persons who do not belong to them; and the representatives will therefore depend for their seats on the votes of other than members of the depressed classes. I am to say that the Government adhere to the view expressed in their Memorandum to the Commission, that separate electorates of the depressed classes should be created wherever possible, and that for the rest the representation of these classes should continue to be by nomination. This Government also wish to emphasize their objection to any reduction of the representation of this class of the population.

13. The Commission proposes to continue the representation of *Europeans* and *Anglo-Indians* by means of separate electorates. This proposal is in agreement with the views already expressed by the Madras Government and is accepted by them.

14. For *Indian Christians* the Commission proposes representation in Madras by the reservation of seats. At present this community is represented by means of separate electorates; and the Madras Government adhere to the view, to which they gave expression in their Memorandum to the Commission, that a community which has once enjoyed the privilege of separate electorates should not be deprived of that privilege against its will. The Commission has recognized the force of this claim in the case of Muhammadans, and it is inconsistent to ignore it in the case of Indian Christians.

15. This Government support the Commission's recommendation for the abolition of the *official bloc*, and to permit experts who are not members of the Council to appear in Committees of the Council but not on the floor of the House.

16. With regard to *University representation*, I am directed to observe that the Commission makes no explicit reference to the point urged by this Government, viz., that in future the electorate should be the members of the Senate and not the general body of graduates. The Government of Madras desire to secure the representation of a true academic or educational standpoint which can only be attained through the change which they have suggested, and they would press for the acceptance of their proposal.

17. This Government accept the recommendation of the majority of the Commission that the representation of *Commerce* and

Planting should be maintained as at present. They also accept the proposals of the majority of the Commission with regard to the special representation of *Labour*.

18. The Commission recommends that the special electorates for *Landholders* should not be continued, and that if a sufficient number of candidates of this class are not returned by general constituencies, the Governor should have discretion to add by nomination such number as will bring their representation in the Council up to the proportion now guaranteed to them. The Government of Madras consider that the Commission was acting on a wrong assumption when it considered that landholders would necessarily exert such influence that their return would be assured and that therefore there was no necessity for a separate electorate; the signs of the times tend to the other direction, and it is extremely doubtful if in the future landholders will be able to exercise the same influence as at present. There is a danger that landholders, if they know that they are sure of obtaining a certain number of seats by nomination, will not take the trouble to stand for election. And rather than run the risk of a Council in which landholders are represented by nominated members alone, the Government would prefer to continue their special electorates, as they originally suggested.

19. The Government accept the Commission's proposals for the representation of *Women*.

20. The Commission recommends that the Governor should have the power to *nominate* members to represent certain special classes, viz., the depressed classes, Anglo-Indians, Indian Christians and landholders, in case adequate representation cannot be secured by means of election. The Government of Madras, as has been stated above, would prefer that Anglo-Indians, Indian Christians and landholders secured their representation by means of separate electorates; they recognize the need for nomination in the case of the depressed classes and also for the backward tracts. Over and above these special cases the Commission would give the Governor power to nominate a number, between 5 and 10 per cent. of the total fixed seats, with the object more particularly of ensuring better representation of women and of labour. The Madras Government while accepting this recommendation, would limit the maximum number of these nominations to 5 per cent. of the total number of seats.

21. The Government of Madras accept the proposals in paragraphs 94 and 95 of the Report to empower provincial legislatures to initiate amendments of the constitution. And they would add to the subjects enumerated in paragraph 95, as falling within the scope of a " constitutional resolution," a fourth subject, viz., proposals to set up a second chamber. (Please see paragraph 28 below.)

22. The Government also agree to the Commission's recommendations to continue the present method of securing a proper distribution of legislative topics between the Central and Provincial Legislatures, and to maintain the Governor's present powers in relation to assent to Bills and to their reservation and return. They accept also the proposals in paragraphs 97 and 98 of the Report that in the matters over which special executive power is reserved to the Governor, he should also have the power by certification to secure the passage of rejected Bills and to restore rejected grants; and that in cases of emergency, when the legislature cannot or will not function, the Governor should have the exceptional powers of legislation by ordinance and of authorization of expenditure over the whole provincial field.

23. The Commission considers that in the normal constitutional system proviso (*b*) in section 72-D (2) will have no place. It must, however, be remembered that it is possible that an emergency may arise, when the Legislative Council is not in session, demanding immediate expenditure for which there is no provision in the budget. Under this proviso the Governor now has the power to authorize such expenditure. The Government of Madras consider that the power should be retained, but that it should vest in the Cabinet instead of in the Governor.

Chapter 3.—*The Franchise.*

24. In the Memorandum which they submitted to the Commission the Government of Madras expressed the opinion that the time had not come for any extension of the franchise. The Commission, however, has found that " the present franchise is too limited in scope to provide the material from which to build any adequate scheme of representative Government," and recommends that a new franchise committee be set up with instructions to frame such a scheme as will enfranchise about 10 per cent. of the total population, i.e., more than treble the present number of voters. The chief arguments which lead the Commission to this conclusion are (1) that the present limited franchise operates unfairly as between different classes and creeds, (2) that there is a large number of literate persons who have not got the vote, and (3) that those below the present line of qualification are in many cases just as fit for the vote as those who have it. I am to say that the Government of Madras admit the force of these arguments, especially that based on the number of literates who are not enfranchised; they agree that there should be a limited extension of the franchise, and that the details should be worked out by a franchise committee, who should be instructed to add to the present qualifications one based on education of a fairly low standard.

25. A woman under the present rules may be registered as a voter, if she has the property qualifications which entitle a man to

registration. The Madras Government agree that in addition to this property qualification there should be for women over twenty-one as well as for men a qualification based on education; they consider that the wife of a man who has a property qualification to vote should be enfranchised only if she is qualified independently of her husband; to enfranchise the illiterate wife of a man qualified to vote will simply be giving him two votes instead of one. For widows the Government agree with the Commission that those whose husbands at the time of death had a property qualification should be enfranchised; those who have the educational qualification will in any case have a vote.

26. In paragraph 109 of the Report the Commission refers to the recommendation in paragraph 95 that provincial councils should after ten years be empowered to initiate measures for further extensions of the franchise, and adds a further recommendation that after fifteen years another franchise committee should review the progress made and, unless 20 per cent. of the population is by that time enfranchised, devise means of accelerating the rate of progress. The Government of Madras have accepted the recommendation in paragraph 95 of the Report; but they do not agree to the proposal that a second franchise committee should necessarily be appointed after fifteen years; they regard this proposal as inconsistent with the principle laid down by the Commission that the new constitution should contain within itself provision for its own development; they consider that the arrangements proposed in paragraph 95 of the Report afford adequate facilities for the constitutional plant to grow of itself; and they see no need to provide that in fifteen years a body from outside should be appointed to pull up the plant and see how it is getting on.

27. The Government of Madras accept the recommendation that limits should be prescribed by rule for election expenses, though they are not altogether confident that such rules will be successful in preventing corruption.

Chapter 4.—Second Chambers.

28. On this question the Commission has not been able to make an unanimous recommendation one way or the other. In the Memorandum which they submitted to the Commission, the Madras Government did not advocate a second chamber for the reason that "there are no elements or interests which do not or would not contribute to a single house and from which a second or revising chamber could be formed." While they agree that it is, in theory, possible for all the interests of the province to obtain representation in the Legislative Council, the Government recognize that there is a large stratum of "solid" people, not merely big zamindars or other landholders, but also bankers, professional or business men, merchants and retired officials, to whom the rough and tumble of

popular political contest is distasteful, but to whom the second chamber would afford a suitable forum. From among these people it would undoubtedly be possible to find the material necessary for a small second chamber such as that suggested at the end of paragraph 115 of the Commission's Report. The Government also consider that a second chamber might perform many useful functions, either in exercising a moderating influence that may render the Governor's personal intervention unnecessary or in supporting the Governor against the vagaries of the lower house. In spite of these considerations, however, the Government have come to the conclusion that it is better at present not to dissipate such political talent as now exists in the province more widely than between the local Legislative Council, the Central Assembly and the Council of State. They recognize that circumstances may create a demand for a second chamber, to act as a check on extravagant measures adopted by the Legislative Council and to form a buffer between the Legislative Council and the Governor; but they would leave it to the Legislative Council itself to initiate such proposals; and they would therefore include proposals for the setting up of a second chamber among the objects of the " constitutional resolution " which the Commission proposes, in paragraph 95 of its Report, to empower a provincial legislature to carry.

29. The Madras Government are not convinced that the expert revising body suggested by the Commission in paragraph 117 of the Report would serve any useful purpose. The Advocate General is usually a member of the Select Committees which consider legislative proposals in detail, and his advice is taken at every stage of the proceedings; the final drafts of legislative measures are examined by the departments of the Secretariat who consider their administrative effect, and, if they think it necessary, consult the Advocate General upon questions of law or drafting. It is therefore superfluous to set up a special body to perform these functions. The Government, however, recognize that the need for such a revising committee may declare itself in future and they would not object to give provincial Governments and legislatures the power to create such a body.

PART III.

Chapter 2.—The Backward Tracts.

30. The Madras Government are concerned with two backward tracts :—(1) the Laccadive Islands and Minicoy, which have been wholly excluded from the present constitution and (2) the Agency tracts, which have been partially excluded. The Government consider that the proposals made by the Commission for the administration of these tracts are clumsy and complicated. The Governor is to administer them as agent for the Governor General

in Council, but he is apparently to rely upon the Madras Government for his officers. The higher officers, for example, Collectors, Inspector General of Police, Surgeon General, &c., will come under the Governor as soon as they enter these tracts or deal with matters affecting them; for subordinate officials the Governor will have to apply to the appropriate Minister for personnel. If there is trouble in an Agency and the Governor wants extra police, he will have to apply to the Home Minister who may reply that he regrets that in the disturbed state of the country he cannot spare any police. The Governor will have to take over the Agency work now done by the Revenue Member; and he will either have to have a Secretary for the backward tracts or his Private Secretary will have to take over the duties of such a Secretary.

31. The exclusion of these tracts implies a want of trust in the Cabinet of Ministers and the local legislature, and a feeling that they will not administer them properly and will not provide funds necessary for their development. The Government of Madras do not consider that there has been anything in the attitude of Ministers or the Legislative Council in the past to justify these apprehensions.

32. The Madras Government therefore consider that these areas should not be excluded from the Presidency or from the jurisdiction of the Ministers. They would recommend as special safeguards,

(1) that no law or rule having the force of law shall be brought into force or altered or repealed in a backward tract or any part of it without the concurrence of the Governor; and

(2) that if the Governor General in Council is satisfied that a backward tract or any part of it is maladministered he may exclude it from the jurisdiction of the Madras Government and make other arrangements for its administration.

Part IV.

Chapter 1.—*The Central Legislature.*

33. *The Federal Assembly.*—The Government of Madras recommended to the Commission that, while the separate constituencies should be retained for Muhammadans, Europeans, landholders and Indian Commerce, such general seats as may be allotted to the province should be filled by election made by the members of the provincial legislative council of persons, whether members of the council or not, who are qualified under the provincial electoral rules to be members of the provincial legislative council. The Commission's recommendation is that there should be no special constituencies, but that all the seats allotted to the province should be filled by election made by the members of the provincial legislative council by the method of proportional representation.

34. I am to say that with regard to the method of election to the Federal Assembly the Madras Government now are divided in opinion. One half favours the recommendations of the Commission on the general grounds urged in the Report, although all are agreed that among the general public the proposals are unpopular. The other half of the Government would prefer to keep the present method of election which they consider would more closely represent the views of the electorate. In these circumstances, the Government of Madras are unable to give any definite opinion.

35. *The Council of State.*—The Madras Government in their Memorandum recommended no change as regards the Council of State. The Commission, however, would introduce indirect election either by a second chamber, if there is one, or by the members of the provincial council by the method of proportional representation. The Commission is led to this recommendation by the consideration that considerable difficulty has been found in forming an electorate, and that the basis of representation is altogether too narrow. Yet the Commission admits that the Council of State as now constituted contains members of experience and distinction who have made valuable contributions to the discussion of public affairs, and that it has been a steadying influence during a difficult transitional period. The Government of Madras infer from these conclusions that the present electorate has been successful in sending to the Council of State candidates of experience and status, such as the Commission desires to secure; and on this ground they adhere to their recommendation not to make any change in the method of election or in the qualifications of electors.

36. *Legislative powers.*—The Commission recommends no change in the legislative powers of the Central Legislature. The sphere of the provincial legislatures will continue to be protected by the provision that the previous sanction of the Governor-General is required for the introduction of any measure (1) regulating any provincial subject, or any part of a provincial subject, which has not been declared by rule to be subject to legislation by the Indian legislature, and (2) repealing or amending any Act of a local legislature. The Commission looks forward to a growing tendency on the part of provincial legislatures to undertake—with the Governor-General's previous sanction—legislation on subjects allotted by rule to the centre; and it suggests that the Central Legislature can assist in extending desirable reforms by passing enabling statutes, which would be subject to adoption by resolution of a provincial legislature.

37. I am to say that the Government of Madras accept these proposals generally; they consider, however, that it should be laid down that the Central Legislature should not have power to legislate for matters which concern one province alone which has its own legislature; they would accept the Commission's recommendation that for certain purposes the Central Legislature should be able

to legislate for all or a majority of the provinces, such legislation to be subject to adoption by resolution of a provincial legislature.

38. The financial powers of the Central Legislature will be considered when dealing with Part VIII of the Report—Sir W. Layton's proposals.

Chapter 4.—Relations between Centre and Provinces.

39. The Government of Madras accept the Commission's recommendation that Governors, in the exercise of their special and emergency powers, should be subject to the control of the Governor-General.

40. The Commission's recommendations regarding control by the Central Government over provincial Governments are contained in paragraphs 182 to 186 of the Report. Except in one particular, the Madras Government accept those recommendations. They demur to the finding contained in the last sentence of paragraph 184, "We think it essential that the Central Government, in dealing with questions which vitally affect more than one province, should in the future have a more authoritative position than it now enjoys, constitutionally, in the transferred sphere," and to the means by which the Commission proposes to give effect to this finding. Clause (2) of the present rules under section 19-A of the Government of India Act reads "to decide questions arising between two provinces in cases where the provinces concerned fail to arrive at an agreement"; the corresponding "category" proposed by the Commission reads, "matters which may, in the opinion of the Governor-General, essentially affect the interests of any other part of India." The Commission admits that under the present rules the sort of co-operation and co-ordination between provinces, which its proposals are intended to secure, has to some extent been achieved, and that the imposition of specific central control is not the best way of achieving it. The Madras Government consider that the change recommended by the Commission gives the Central Government too wide a measure of control, and would prefer to retain the present rule, which has admitted the development of the co-ordination and co-operation which the Commission desires.

41. The financial relations between the Central and provincial Governments, and the measure of financial control which should be secured to the Central Government will be considered in connexion with the general financial proposals contained in Part VIII of the Report.

42. The Government of Madras in their Memorandum asked for a thorough examination of the present allocation of subjects between the Central and Provincial spheres, in order that the list of Central subjects might be strictly confined to those in which provincial boundaries have no place. The Commission has not accepted this

suggestion, though it admits that experience may show from time to time the necessity of changes in the distribution. This Government still consider that the present allocation of subjects should be carefully examined, and I am to ask that arrangements may be made for this to be done. I am to add that this Government accept the two specific recommendations of the Commission with regard to the C.I.D. organization and to factory legislation and labour welfare.

43. There is one matter concerning the relations between the Centre and the provinces to which the Madras Government alluded in the Memorandum which they submitted to the Commission, but which the Commission has left unmentioned, namely, the desirability of continuing the present system by which certain Central subjects are administered through the agency of the provincial Governments. The recommendation of the Madras Government was that in future the Governor, and not the Government, should be the agent of the Central Government. I am to say that the Government have given further consideration to this matter and are now of the opinion that it is not necessary for the Governor to be the agent of the Central Government. If the Central Government are not prepared to appoint their own officers to administer all Central subjects, they should arrange with local Governments to act as their agents; and the local officers of the local Governments should be employed in the administration of details; and for this agency work the local Governments might reasonably receive a subsidy from the Central Government. In short, the Government of Madras are now of the opinion that for the administration of such Central subjects as are not administered through officers of the Central Government, the Government, and not the Governor, should be the agent.

Part V.—Defence of India.

44. Although the Madras Government feel that the future of the army in India is primarily the concern of the Government of India, they wish to express the opinion, which is widely held, that the Indianization of the army should proceed more rapidly than at present. They realize that the reason for such slow progress is that suitable candidates are not coming forward for commissions. They would therefore suggest that in order to obtain a larger number of suitable candidates it is absolutely necessary to establish more schools on the lines of Dehra Dun and also an Indian Sandhurst. So far as the Commission deals with the use of the army by provincial Governments for the maintenance of law and order, it proposes to meet the difficulty of placing British troops under the uncontrolled orders of elected Ministers by requiring that every demand for Imperial troops should be put forward by the express authority of the Governor, who should, as far as possible, satisfy himself as to their legitimate employment. I am to say that, in the

opinion of the Madras Government, this provision will not work. In the first place it will impair the responsibility of District Magistrates and the Commissioner of Police for the maintenance of peace in their charges; and in the second place, as the Commission itself concedes, in cases of emergency it may not be possible to obtain the Governor's authorization before sending a requisition for troops. For these reasons the Madras Government consider that the normal procedure should be that which the Commission suggests for cases of emergency, viz., that the Governor's subsequent personal endorsement should be obtained at the earliest possible moment for every application for military aid.

45. There is one other matter connected with the army upon which the Madras Government wish to lay stress, viz., the need for the revival of the old Madras regiments. In Volume I, paragraph 116 of the Report, the Commission notices the remarkable variations in the contributions which provinces make to the Indian army. The Government of Madras would remind the Government of India that the pre-eminence of the Punjab and the United Provinces as recruiting grounds for the army is comparatively recent, and has been a natural consequence of the gradual reduction of the old Madras army till there are now only three Madras regiments left. The Madras army has a fine record of gallant and loyal service, and military traditions are still strong in many parts of the Madras Presidency. If the North India recruit is admittedly superior in physique, the Madrasi claims superiority in intelligence, which is likely to count for more in the future than it has done in the past.

46. The Government of Madras consider that the interest of the Province demands that the military tradition and the proved military capacity of the Madrasi should be recognized by the restoration of the old Madras regiments. So long as the army is an Imperial concern, it is obviously desirable that it should be associated by recruitment with as wide an area as possible; and the revival of the Madras regiments may also help towards the attainment of the goal mentioned in Volume II, paragraph 211 of the Report, the possession by a self-governing India of military forces of its own; for the fact that at present such an overwhelming proportion of the army is recruited from the Punjab and the United Provinces is one of the obstacles to the formation of an Indian National Army on which the Commission has laid stress.

Part VIII.—Indian Finance.

Sir W. Layton's Report.

47. The Commission accepts the general principles of its financial assessor Sir W. Layton's scheme for the division of resources in British India between the Central and provincial Governments.

The Madras Government are not of course able to say whether the premises on which Sir W. Layton bases his scheme are correct or not; but, assuming that they are correct, the Madras Government, subject to the observations made in the following paragraphs, are in general agreement with his proposals. The scheme is based on the assumption that Central revenues are likely to expand so rapidly as to yield a surplus of Rs.14½ crores at the end of ten years. It includes—

(1) proposals for the reallocation of existing revenues, and

(2) proposals for new taxation (*a*) to be levied and spent by the provinces, (*b*) to be levied centrally and distributed to provinces according to origin, and (*c*) to be levied centrally at the request of the provinces and distributed according to population.

The proposals for the reallocation of existing revenue concern (1) excise on foreign liquor, (2) commercial stamps, (3) income-tax and (4) salt duty. As regards foreign liquor, the proposal is that the customs duty should be reduced to the standard luxury rate of 30 per cent. and that the provinces should be given the right of imposing further duties in the form of excises. It is estimated that by this change the revenue of Madras will benefit by Rs.16.45 lakhs a year. As regards commercial stamps, the proposal is that the revenue from certain commercial stamps, which ought to be uniform throughout India, should be surrendered by the provinces to the Central Government. It is estimated that this would cost the Madras Government about Rs.30 lakhs a year. Sir W. Layton shows that the losses and gains by the Central and provincial Governments from these two changes would approximately balance. But Madras stands to lose about Rs.13½ lakhs a year; consequently other provinces are to benefit at the expense of Madras. The Madras Government, in their Memorandum, laid down the postulate that any adjustment of financial relations must not involve the sacrifice on the part of any province of any revenues now accruing to it, and stated that any loss which such adjustments might involve should be made good by an equivalent assignment. If no other changes in the distribution of the receipts from taxes are made at the same time, the Madras Government wish to press this claim for a balancing contribution, so that this adjustment may not involve the benefit of other provinces at the expense of Madras.

48. Sir W. Layton proposes to assign to the provinces half of the income-tax paid by residents of the provinces on their personal incomes. It is estimated that this will benefit the revenues of Madras by about Rs.35 lakhs. The Madras Government have strongly objected to any allocation of income-tax based on the place of collection. The present proposal is not open to this objection, as the share of the personal income-tax is to be allocated to the province on the basis of the place of residence of the assessees. The Government accordingly accept this proposal.

49. Sir W. Layton further proposes that as soon as the resources of the Central Government permit, the proceeds of the salt duty should be transferred to the provinces. This proposal also is acceptable to the Madras Government.

50. The new taxation to be levied and spent by the provinces is (1) a surcharge not exceeding one-half of the share of the personal income-tax transferred to the provinces, and (2) a terminal tax. The Madras Government have no objections to urge against these proposals for new provincial taxation.

51. Sir W. Layton next proposes that the exemption from liability to income-tax now enjoyed by agricultural incomes should be withdrawn, and that the income-tax derived from this source should be distributed to the provinces according to origin. The proposal as it stands means that a province will be compelled to levy income-tax on agricultural incomes, although the Provincial Government may not consider it desirable or necessary, in order that other provinces which need additional revenue may be able to obtain it. A serious objection to this proposal is that the Madras Government do not consider it equitable to tax the income from land held on ryotwari tenure, unless the income from land in permanently settled estates also is assessed to tax; and the levy of income-tax on the agricultural income of holders of permanently settled estates will certainly in Madras be regarded as a breach of the conditions under which the permanent settlement of the estates was carried out; for the sanad granted to every holder of a permanently settled estate contains the following clause :—

" The British Government . . . resolved . . . . to grant to zamindars and other landholders, their heirs and successors, a permanent property in their land in all time to come; to fix for ever a moderate assessment of public revenue on such lands which shall never be liable to change under any circumstances; to institute courts of judicature for the protection of these valuable rights; . . . . "

It may, however, be noted that the fourth clause of the sanad contains the reservation that the permanent assessment of the land-tax in a zamindari is exclusive of " all taxes, personal and professional " ; and it is perhaps arguable that the levy of income-tax is permissible under this clause.

52. The Government of Madras believe that the adoption of this measure will alienate the sympathy of the zamindars of the province, who have always stood by them, and will provoke excessive litigation. And for this reason they consider that no attempt should be made to levy income-tax on the agricultural incomes of the holders of these estates, without a complete examination of the conditions under which their estates are held and without coming to some amicable arrangement with the zamindars or their representatives. This Government, however, do not for this reason wish to prevent other provinces from levying the tax on

agricultural incomes if they find it necessary and possible to do so. It does not seem to this Government to be necessary that this tax should be levied centrally. The only apparent reason why Sir W. Layton proposes to levy the tax centrally is that the withdrawal of the exemption from taxation of agricultural income will affect the rate at which mixed incomes are taxable; so that if in Madras agricultural income remained exempt from taxation, a man who derives his income both from agriculture and from other sources might very probably pay income-tax on his non-agricultural income at a lower rate than a man in another province where agricultural income also is taken into account; and the Central Government would thus be a loser. This difficulty, however, can be surmounted if agricultural income, without being made liable to taxation, is taken into account in fixing the total income which determines the rate at which income-tax should be levied on the non-agricultural part of the income. This would mean that the income-tax authorities would have to *determine* the income of assessees from all sources, including agriculture, but that the *levy* of income-tax on agricultural incomes should be left to be decided by the provinces concerned. The Government of Madras are prepared to accept an arrangement of this nature which leaves it to the discretion of the provinces to withdraw the exemption from taxation on agricultural income, but they are not prepared to accept the proposal put forward by Sir W. Layton that the Central Government should have the power to levy income-tax on agricultural incomes in all provinces, whether the provinces wish it or not.

53. The next proposal is for an excise duty on factory-produced tobacco and an excise duty on matches, to be levied centrally at the request of the provinces and distributed according to population. The Madras Government have no objection to the proposal to levy these two new taxes, if it becomes necessary to find additional revenue. The proceeds of these taxes when they are levied, and those of the salt duty when the Central revenues produce a sufficient surplus, are to go to a provincial fund. Proposals for changes in the taxes within the scope of this fund are to be considered by the Finance Ministers of the provinces meeting once a year as an Inter-Provincial Council. If the Finance Ministers of more than three provinces desire to increase or decrease the resources of the fund, it would be the duty of the Finance Member of the Central Government formally to move in the Assembly that the change may be made. The Government of Madras are doubtful whether it should be open to a minority of the Inter-Provincial Financial Council to bring proposals regarding taxation before the Assembly. It seems to them that any proposal which had not the support of a majority of the Provincial Finance Ministers would not be at all likely to be accepted by a majority of the Assembly; and they think that a minority should not have the power to initiate such proposals, which are certain to provoke considerable agitation.

54. Sir W. Layton does not state explicitly whether the residuary power of taxation should vest in the Central Government or in the provinces, but the general tenor of his report indicates that he intends to vest these residuary powers either in the provinces or in the class of taxation which he proposes to include in the provincial fund. The Government of Madras consider that there should be a clear provision in the constitution vesting the power to levy residuary taxation in the provincial Governments, subject to such control by the Central Government as may be necessary in order to safeguard the central sphere of taxation from encroachment by provincial taxation.

55. There remains the question of the general financial relations between the Central Government and the provinces. The Commission has deliberately refrained from suggesting any financial safeguards, except for the special purpose of enabling the Governor to secure supply over the limited field in which he holds in reserve special powers or for carrying out directions which he may receive from the centre. It adds, however, that the Central Government should have the power to control borrowing by a provincial Government, to refuse a loan required by a province to meet a deficit, or, if need be, to impose discriminatory rates of interest in respect of any such loans which it grants. For the exercise of this control it is proposed that there should be a Provincial Loan Council consisting of the Finance Member of the Government of India and the Finance Ministers of the provinces; this Council would establish a borrowing programme, lay down regulations, and arrange terms. The functions of the Council will at present be advisory and on any question of withholding sanction for loans owing to a breach of the regulations, action will be taken by the Central Government after consultation with the Council. The Government of Madras accept this proposal for the establishment of the Provincial Loan Council.

56. The Madras Government, in their Memorandum, suggested that, in addition to the famine-relief fund maintained under Devolution Rule 29, an emergency fund of half a crore should be constituted to meet such emergency expenditure as the relief of distress caused by cyclones and floods. Neither Sir W. Layton nor the Commission has noticed this suggestion; the Government of Madras consider that if a province is to be financially autonomous it must also be self-sufficient, and that a fund of this kind is essential if provincial autonomy and stability are to be preserved. I am therefore directed to press this matter again upon the attention of the Government of India.

57. The provincial accounts are at present kept by the Accountant-General, an officer of the Central Government. The Government of Madras are quite satisfied with this arrangement and would prefer that it continue. They would, however, if necessary, agree to enter into a contract with the Central Government to pay the cost of the Accountant-General's services.

58. The Government of Madras recommended that the Central Government continue to hold the balances of provincial Governments; and Sir W. Layton's recommendation is to the same effect. The Madras Government further recommended that the power conferred upon the Central Government by Devolution Rule 21, which has never been exercised, need not be retained. Sir W. Layton, however, points out that " the keeper of the cash will always have the salutary, if sometimes unpleasant, task of putting a check upon overspending by insisting that accounts are not overdrawn." Devolution Rule 21 simply gives the Central Government power to secure this object by fixing a figure below which the provincial balance shall not be allowed to fall. The Government of Madras accept the need for the retention of this power and have no objection to the continuance of Devolution Rule 21.

59. In their Memorandum, the Madras Government asked for an examination of possible means of strengthening the position of Ministers against the danger of financial irresponsibility on the part of the Legislative Council. Neither Sir W. Layton nor the Commission has mentioned this matter. The Madras Government are still convinced of the necessity of such protection for the Ministry, and would suggest, as a possible solution of the difficulty, the framing of a rule to the effect that no resolution of the Council involving the expenditure of public money shall be effective, unless the Council also passes a resolution to provide the funds necessary, and that such a money resolution shall not be moved by any member other than a Minister.

Part IX.—The Services.

60. The Commission recommends that the Indian Civil Service and the Indian Police Service should continue to be recruited on an All-India basis by the Secretary of State who should have power under a rule similar to rule 12 of the Devolution Rules, to require provincial Governments to employ these services in such numbers and in such appointments as he thinks necessary. This recommendation is at variance with that of the Government of Madras in their Memorandum to the Commission where they advanced the view that all the All-India services in the province should be provincialized. The Government have not been able to arrive at an unanimous decision on this matter; some members maintain the argument stated in the Memorandum, viz., that " responsible self-government, if it implies anything, implies that the province must be free to recruit its own servants as and when it likes. There can be no imposing upon it a body of men recruited under regulations, from sources and on rates of pay prescribed by some outside authority"; those members who maintain this view would, however, allow the provincial Government to apply to the Government of India in advance each year specifying the number of

European officers they desire to be recruited for them in Great Britain and the terms on which the provincial Governments are prepared to employ them; they recognise that this system will mean that the Central Government, instead of choosing recruits for its Secretariat from members of the services in the provinces, will have to arrange for direct recruitment; but they consider that this is not a heavy price to pay to secure complete control over their servants. Other members of the Government, however, admitting the importance of the considerations which have influenced the Commission in making its recommendation, would accept this recommendation to continue the present system of recruitment.

61. The Government have considered the arguments advanced by the Commission in favour of continuing the recruitment of the Irrigation and Forest Services on an all-India basis; but they see no reason to change the opinion expressed in their Memorandum that these services should be provincialized.

62. *Safeguards.*—The Commission recommends that the right to retire on proportionate pension should be continued to all officers who might under the rules have so retired upon the introduction of the new constitution. These rules permit retirement on proportionate pension only to officers appointed before January 1st, 1920. In view of the very considerable changes in the conditions of service which must follow this revision of the constitution, the Government of Madras consider that the right to retire on proportionate pension should be extended to all members of all-India services. The Madras Government agree with the Commission that no limit of time should be prescribed within which the right must be exercised.

63. The Commission states in general terms its purpose to leave unchanged the rights and privileges of present members of the services, and to this end proposes to maintain the safeguards in the Act itself and to provide that changes in the statutory rules affecting the services should, as hitherto, require the concurrence of the Secretary of State's Council. The Government of Madras accept these proposals, but would add, in order to secure members of all-India services against supersession by members of a provincial service, a provision that all appointments to posts included in the cadre of all-India services in the province should be made with the concurrence of the Governor.

64, With regard to pensions, the Commission merely repeats and endorses the opinion of the Lee Commission, that if any statutory change should be made, involving the transfer of financial control in this regard from the Secretary of State in Council, adequate provision should be made for safeguarding pensions. The Government of Madras believe that recent threats to repudiate debt have caused considerable uneasiness in the services with regard to the security of pensions, which will not be allayed without some more definite

guarantee than is proposed by the Commission; they would accordingly propose (1) that pensions should be given similar priority as a charge on the revenues of India as the public debt, and (2) that the right to commute should be extended to the whole pension, instead of half, subject to the condition that half the sum obtained by commutation should be spent on the purchase of an annuity in an insurance office approved by the Secretary of State. The uneasiness felt by members of the services with regard to their pensions extends also to family pensions and provident funds; and the Government of Madras would suggest that these funds should either be placed in the charge of the Public Trustee in England or of trustees appointed by the Secretary of State.

65. The Government of Madras have already set up a *Public Service Commission* which meets all the conditions postulated in the Statutory Commission's Report. This Government agree that when the Governor's Executive Council disappears it will be necessary to amend the Act so as to make the appointing authority the Governor, instead of the Governor in Council.

Part X.—The High Court.

66. The Commission recommends that all High Courts should, for administrative purposes, be put under the Government of India. When the Commission put this suggestion to the Government of Madras, their reply was that the Government saw no reason for the transfer and that they considered that in Madras the local Government were better qualified than the Government of India to judge of the administrative needs of the High Court.

67. The Commission, finding that the Calcutta High Court is to some extent under the administrative control of the Central Government, while other High Courts are under that of the Governments of the provinces in which they are situated, observes that there is no possible justification for keeping up two systems, side by side, in British India; that the importance of maintaining the complete independence of the High Court Bench, not only in respect of private litigation, but in connexion with controversies in which the local administration may be involved, is overwhelming; and that cases may arise in which one High Court has to serve more than one provincial area. For these reasons the Commission comes to the conclusion that the best way of getting rid of the anomaly which places one High Court under the administrative control of the Central Government while the others are under that of their provincial Governments is to put all the High Courts under the administrative control of the Central Government, the expenses being borne on Central funds.

68. The Madras Government have consulted the High Court on this proposal; and I am to say that all the Judges are very much in favour of the recommendations of the Commission; they

agree that it is highly desirable that both for financial purposes and as regards administration the High Courts should be directly under the Government of India.

69. The Government of Madras are not convinced either by the arguments of the Commission or by the opinion of the Judges of the Madras High Court, that the change is necessary at present. They think that the anomaly observed by the Commission is sufficiently explained both by historical causes and also by the fact that the Calcutta High Court now serves the province of Assam as well as Bengal. They deny the insinuation that the independence of the High Court Bench is impaired by its subordination for administrative purposes to the local Government. And they do not consider it necessary now to anticipate circumstances in which the Madras High Court may have to serve more than one province. They hold that there are strong arguments against making any change. The centralization of the High Courts is inconsistent with the constitutional theory that the administration of justice is a provincial subject. There are also practical objections to the Commission's proposal; in the matter of the appointment of Judges to the High Court the only change recommended is that additional and acting Judges are to be appointed by the Governor-General instead of, as now, by the Government of India and the local Government; there is a possibility that the Governor-General may send to Madras a Judge from another province unfamiliar with provincial law or custom, for instance, with the land tenures of Madras, some of which are not only complicated but peculiar to this province; or again, the Madras Government have laid down rules for recruitment to the public service with the object of securing as far as possible that different communities obtain due representation; the High Court appoints District Munsifs; and unless the High Court remains under the administrative control of the local Government, it may not be possible to maintain in the judicial service the communal representation which is secured in all other provincial services. Again it is in the local Legislative Council that complaints against delays in the disposal of litigation, &c., are ventilated. It is the practice of the local Government to pass these complaints on to the Judges of the High Court, who, so long as they are under the administrative control of the local Government, do pay attention to such representations; it is possible that if the High Court is removed from the local Government's administrative control, such complaints may not receive the attention which is now paid to them. Seeing that to these considerations is added the fact that the administrative control of the High Court by the local Government has led to no complaint or abuse, the Government of Madras adhere to the recommendation made in their Memorandum that the present arrangements should continue.

70. I am to add that the Government of Madras wish to recommend that in any legislation affecting the status or constitution of the High Courts, the opportunity should be taken to remove the restriction now contained in section 101 (4) of the Government of India Act which requires that the Chief Justice must be a barrister.

Part XI.— Relations between Home and Indian Governments.

71. The Commission proposes certain modifications in the powers of the Secretary of State over provincial Governments, corresponding to the extension of the field within which responsibility for the Government of British India rests upon elected Indian legislatures. In matters which concern the province alone, the Secretary of State is to have the power to issue orders only in the limited class of cases in which special powers are reserved to the Governor. In matters which concern more than one province, i.e., those matters in which the Governor-General in Council is to have powers of control over provincial Governments, the Secretary of State, in the exercise of his general powers of superintendence, direction and control of the Governor-General in Council, will have the power to issue orders through that authority. The Government of Madras accept these recommendations subject to the modification of "category" (2) in paragraph 182 of the Commission's Report, suggested in paragraph 40 above.*

72. In conclusion the Government of India ask for an estimate of the reception accorded in Madras to the recommendations of the Commission. As the Government of India are probably aware, the Press, with the exception of the "Madras Mail," has been practically unanimous in its condemnation of the proposals. Most of the papers have contented themselves with criticism in such general terms as "an insult to India," "a constitutional freak," "a scheme which implicitly turns down Dominion Status as unsuitable to Indian conditions." But "Justice," the principal organ of the Non-Brahman party, has published a series of articles criticising in greater detail such particular recommendations as the power given to appoint officials as Ministers, the powers reserved to the Governor, the retention of nominated seats in provincial councils, the appointment of an official as Secretary to the Cabinet and the retention of recruitment to the Indian Civil Service and the Police on an all-India basis. Throughout these articles the recommendations of the Commission are compared unfavourably with

---

* Substitute for "(2) matters which may, in the opinion of the Governor-General, essentially affect the interests of any other part of India," the present rule "(2) questions arising between two provinces when the provinces concerned fail to arrive at an agreement."

the proposals made in the Memorandum which the Madras Government submitted to the Commission. Articles in the " Hindu " have criticised especially the proposals regarding non-elected Ministers, the retention of non-votable expenditure and safeguards for members of the services. " New India," opposing the Report throughout, directs special criticism at the proposals regarding the Central Government, the army and the relations contemplated between British India and the States.

73. Muslims are dissatisfied with the safeguards proposed for their interests and are inclined to insist upon compliance with all their demands; and the depressed classes, while on the whole welcoming the proposals, are opposed to the recommendation that they should obtain representation by the reservation of seats in general constituences.

74. Most of the individual opinions reported, appeared a day or two after volume II of the Report was published, before there could possibly have been time for a careful study of the proposals. Most of these opinions condemn the Report, but a few individuals have found in it more to praise than to blame.

BOMBAY GOVERNMENT.

From the Reforms Officer, Government of Bombay, to the Reforms Commissioner, Government of India, No. 1/161, dated Poona, the 13th August, 1930.

SUBJECT :—*Recommendations of the Indian Statutory Commission.*

With reference to Mr. Lewis' letter No. F. 67/30-R., dated the 24th June, 1930, on the subject of the recommendations contained in Volume II of the Report of the Indian Statutory Commission, I am directed by the Governor in Council to forward herewith, the views of the Government of Bombay on the recommendations of the Indian Statutory Commission, so far as they affect this Presidency.

2. In compliance with the request made in the last sentence of paragraph 4 of Mr. Lewis' letter I am dealing in this report with the recommendations of the Commission in the order in which they are dealt with in their report.

3. *Part I and Part II, Paragraph* 38.—The Government of Bombay agree that the future constitution of India should be permanent and, with necessary safeguards, should contain within itself the means for growth and expansion. They agree also that it should be re-organised on a federal basis. The Government of Bombay also accept the proposal for the appointment of a Boundaries Commission with a view to an enquiry into any desirable redistribution of the Provincial boundaries in India. In accepting this recommendation the Government of Bombay desire to express the hope that the appointment of a Boundaries Commission will not in any way delay the introduction of the reforms, and, in the event of the Boundaries Commission recommending numerous alterations in the present organisation of provinces and of these recommendations being generally accepted, suggest that the procedure should be so regulated as to give time for the new constitution to work without being disturbed at its outset owing to readjustments of provincial boundaries.

4. *Part II, Chapter I.*—With regard to the proposals for the composition of the provincial executive the Government of Bombay do not accept the recommendation that the provincial cabinet may include Ministers appointed from outside the Council. Though there is some force in the arguments put forward by the Commission in support of their recommendation, which is not without a precedent in the Dominion Constitutions, the proposal to include in a Cabinet, jointly responsible to the Legislature, members selected from outside the legislature, seems to the Government of Bombay to be opposed to the principle of responsible government. It will create the anomaly of there being in a cabinet jointly responsible to a legislature persons who will not have been drawn from it and who will not represent the choice of the legislature.

They will not have any party or following in the Council on whom they could depend for carrying out their policy. Though in theory responsible to the legislature, they will not be removable by it, and, being appointed by the Governor, will naturally look to him for support.

The Commission have expressly stated that the overriding powers of the Governor, apart from emergencies, will in future be exercised only for specified and limited purposes and that the emergency powers will be available only when there is a breakdown. The powers suggested for the Governor are wide and intended to meet all possible contingencies. Their actual exercise will depend on circumstances. In all constitutions there must be some ultimate authority empowered to carry on the administration in emergencies, and, in the provinces of India, the Governor appears to be the only authority to whom these powers can be entrusted. In fact, the Governor's responsibilities as the head of the provincial administration are so great that with him must remain all powers not expressly transferred to the Ministry or the legislature, and it would perhaps be better not to embody these powers in the rigid language of a statute. If, however, it is decided that they must be made statutory, the Government of Bombay are in favour of the powers (constitutional, overriding and emergency) suggested by the Commission but would modify their proposals to the extent and for the reasons set forth below :—

(*i*) As representation by election has been suggested for the various communities and interests which are at present represented by nomination the Governor need not be given power to nominate members up to 10 per cent. of the total seats. Nomination should be resorted to only for the purpose of providing representation for such important classes and interests as are not likely to obtain representation by any practicable system of election, or to remove any gross inequalities of representation. To provide for these contingencies the Government of Bombay are of opinion that it will suffice if the Governor is given power to nominate members up to 5 per cent. of the total seats only.

(*ii*) The Governor may be give power to make rules for the transaction of business in his cabinet as recommended by the Commission in paragraph 51 but it should be understood that before making or altering any such rules he will consult the Ministry.

(*iii*) The Governor should have the power to override his Ministry for the purpose of securing the carrying out of any order received by the provincial government from the Government of India or Secretary of State, but it should be made clear that the primary responsibility for securing the carrying out of such orders shall normally lie on the Ministry and that it is only when the Ministry fails or refuses to secure the carrying out of such orders that the Governor should intervene.

I am to add that, in the opinion of the Local Government, the period of 12 months up to which the Commission propose the Governor should be empowered to use his emergency powers (*vide* paragraph 65 of their report) is too long. They would prefer to fix the period at six months. They recognize, however, that within the period of six months it might be impossible to obtain the approval of Parliament expressed by resolution of both Houses and suggest, therefore, that the period within which the Governor may exercise his emergency powers should be fixed at nine months. I am also to suggest that item (2) in paragraph 50, which provides that the Governor shall have power to give directions in order to prevent serious prejudice to one or more sections of the community as compared with other sections requires clarification. The clause as it stands does not make it clear whether the overriding powers of the Governor are to be exercised in the interests of the minority communities only or of majority communities also, should occasion for the exercise of powers in their favour arise. In this connection I am to say that one Honourable Member and one Minister are of opinion that item (2) in paragraph 50 is not required and should be omitted.

5. *Part II, Chapter* 2.—The Government of Bombay agree that the future constitution should not be rigid or temporary, but consider that the principles of elasticity and permanency laid down by the Commission for the provincial governments should apply, with equal force, to the constitution of the Central Government which should also be made permanent and should contain within itself provisions for its future development. An inelastic and temporary constitution at the Centre is bound to affect the constitutional growth of the provinces and may even result in retarding their progress. They are also of the opinion that the Commission's recommendation for amendment of the provincial constitution by resolution contained in paragraph 95 of the Report is unsatisfactory. Apparently the power to be conferred on the provincial councils is limited to an amendment of the legislative machine in respect of the matters specified, and in the manner and subject to the conditions mentioned, in that paragraph. A resolution of the council even when it satisfies the conditions laid down by the Commission will still require the sanction of the Governor-General and possibly of the Secretary of State. In consequence of this procedure the constitution will lose much of that elasticity which it is the very object of the Commission to provide. The Government of Bombay consider that, subject to the safeguards mentioned in paragraph 95, a resolution which has been duly passed by the council and has received the assent of the Governor should have statutory force and effect. I am to observe that the power of amendment should extend not only to an amendment of the legislative machine but to a gradual expansion, subject to necessary safeguards, of the legislative and financial powers of the council

also, and that it should be available to the provincial council after a lapse of five years instead of ten years as proposed by the Commission.

6. (1) As regards the retention of communal electorates, the majority of the Government of Bombay accept the recommendations of the Commission. One Honourable Member and one Minister consider that in place of the existing separate electorates for the Muhammadans there should be joint electorates with reservation of seats for them, or, if the Muhammadan community so desire, they may select a panel out of which the candidates may be elected.

(2) The proposals for the representation of the depressed classes in paragraphs 78 to 80 of the Report are in the opinion of the Government of Bombay inadequate and will not satisfy the community which has been clamouring for special representation for the last 10 years. It is very doubtful whether candidates genuinely representative of the depressed classes will be elected in a general electorate in non-Muhammadan constituencies. The Government of Bombay, therefore, consider that the depressed classes should be provided with separate electorates of their own and should be given one-half of the number of seats to which they would be entitled on the basis of population. If this is done, the provisions suggested by the Commission that the Governor should have power to certify which candidates are authorized to stand for the depressed class seats will not be necessary. The Government of Bombay are also of the opinion that such separate electorates should be continued for 10 years only, and that the franchise qualification for the depressed classes should be the same as for the other communities.

(3) The proposals for the representation of the Indian Christians and of the Bombay University are accepted. But I am to observe that the Government of Bombay are against multiplicity of communal electorates. I am also to add that while the Local Government agree that the present representation of commercial interests should be continued, they are of opinion that such representation should be in its present numbers and not in its present proportion as recommended by the Commission.

(4) The principle underlying the Commission's recommendation regarding representation of Labour contained in paragraph 89 of the Report is accepted. But the Government of Bombay consider that, in view of the fact that Labour would be represented in the general constituencies, the proposed representation should be restricted and that it should, if possible, be provided by election and not by nomination by the Governor. They are of the opinion that agricultural Labour, apart from industrial Labour, should also have special representation. Such representation should be provided by nomination by the Governor as, in view of the difficulties involved in forming suitable electorates for agricultural

labourers, that appears to be the only way by which representation can be provided for them, but the question of the enfranchisement of the agricultural labourer is one which the Government of Bombay desire to put before the Franchise Committee.

(5) The Government of Bombay are unable to accept the recommendation regarding the special representation of landholders, and adhere to their proposals submitted to the Indian Statutory Commission that, besides continuing the present representation of the landholders, an additional constituency for them should be created for the Southern Division of the Presidency and one seat allotted to it. The argument that by virtue of standing and influence they have opportunities of being returned in the general constituencies applies to an equal extent to the commercial communities also, which under the Commission's recommendation are to have special electorates provided for them. The Government of Bombay are, therefore, of the opinion that, in view of the importance of the landholders and the steadying influence which they are likely to exercise in the Councils, the privilege of special representation now held by them should be continued, and that, as landholders in the Southern Division, owing to the smaller number of electors in it, have, as a rule, very little chance in the election against candidates in the Central Division, a separate seat should be allotted to them in the Southern Division as suggested above. One Honourable Minister dissents.

(6) The Commission's recommendations regarding the qualification of women voters call for a detailed examination. It is difficult to estimate without such examination, the statistics for which are not readily available, the number of women voters who will be enfranchised on the proposed qualifications, and what the effect of such enfranchisement would be on the electoral strength of the various communities and interests, especially as social customs will have a bearing on this question. The recommendations are, therefore, accepted, subject to investigation by the Franchise Committee.

(7) In view of the Commission's recommendation that the Anglo-Indians should have representation by election and that the Indian Christians should have it by means of reserved seats, and of their own recommendations that the depressed classes should be provided with representation by election, that the representation of industrial Labour should, if possible, be by election and that the present special representation of the landholders should be continued, the Government of Bombay consider that the Commission's recommendations regarding nomination of members contained in paragraph 92 of the Report are unnecessary, except in the case of agricultural Labour and women the representation of which can be provided for, if the proposal that the Governor should have power to nominate members up to 5 per cent. of the total number of seats only is retained.

(8) The proposals regarding the legislative powers of the Council and the Governor's powers in relation to legislation contained in paragraphs 96 and 97 of the Report appear to be suitable, except as regards the requirement of the previous sanction of the Governor-General to bills introduced in the local legislature. The existing provisions contained in section 80A (3) of the Government of India Act cause considerable inconvenience in practice even under the present constitution, and will, it is feared, greatly hamper and delay the work of provincial legislatures, which, under the proposed constitutional advance, will extend over a much wider field than at present. It is recognised that, as the provinces have, in theory, the right to range over the whole legislative field, they should be under some restraint in the exercise of this right so that they may not encroach upon the central sphere. The existing restrictions are, however, too rigid and need to be relaxed, as far as possible, consistently with the due discharge by the Centre of the wider interests committed to their charge. The Government of Bombay think that this can be effected by adding to the existing section 80A (3) of the Government of India Act a proviso to the following effect :—

" Provided that nothing hereinbefore contained shall be deemed to prohibit the local legislature of any province from making or taking into consideration without the previous sanction of the Governor-General any law satisfying conditions prescribed in this behalf by Rules under this Act."

(9) A provision on the lines of existing section 80C of the Government of India Act should also be made in the new Government of India Bill.

(10) The recommendation that the present distinction between non-voted and voted heads should continue is accepted, subject to the modification that in the explanation contained in the concluding paragraph of section 72D (3) of the Government of India Act, for the word " includes " the word " means " and for the word " allowances " the expression " travelling allowances " should be substituted. The Local Government consider it necessary that the definition of the expression " salaries and pensions " occurring in this paragraph should not include allowances other than travelling allowances. One Honourable Member dissents from this view and considers that the concluding paragraph of section 72D (3) should remain as it is.

7. *Part II, Chapter* 3.—The Government of Bombay agree that the franchise should be extended so that the electorate will be trebled. It is believed that halving the present qualifications may bring about the desired result; but the matter needs to be fully investigated by an expert committee in the light of statistics. The proposed appointment of the Franchise Committee is, therefore, accepted.

8. *Part II, Chapter* 4.—Owing to the cost involved in having a second chamber and the difficulty of securing a sufficient number of suitable members for it, the Government of Bombay are not in favour of the proposal for a second chamber for this Presidency, provided that the safeguarding powers of the Governor are adequate. One Honourable Member, however, dissents from this view and thinks that a second chamber would form a useful buffer between the Council and the Governor. As regards the proposal to constitute an expert revising body to consider details of legislation, as suggested in paragraph 117 of the Report, the Government of Bombay consider that the present practice, which permits the inclusion of experts in select committees, is adequate and there is no need for an expert revising body such as is suggested by the Commission.

9. *Part III.*—The Government of Bombay have no remarks to offer on the recommendations contained in this part of the Report, as there are no areas in this Presidency notified as backward tracts under Section 52A of the Government of India Act.

10. *Part IV, Chapter* 1.—(1) The proposed reconstitution of the Federal Assembly on the basis of the representation of the provinces and other areas according to population will not, it is feared, give a fair representation to the Presidency of Bombay. So far as can be foreseen, by the system of proportional representation, the various communities will enjoy practically the same representation in the Federal Assembly as they have now in the Legislative Assembly. On this point, therefore, the system is acceptable. But the proposal to fix the number of seats to be alloted to each province solely on the basis of population may lead to rather curious anomalies. The population of a province may not really be a fair test of its political or commercial importance. The proposal is to allocate one seat per million inhabitants. On this basis the Bombay Presidency will get 19 seats, taking the figures of the last census, or possibly one or two more, when the next census figures are announced; whereas Bihar and Orissa with a population of 34 millions will get no less than 34 members and the Punjab where the population is 20½ millions will get at least 20 members. It may conceivably be contended that the Bombay Presidency is no more advanced politically than these provinces are. But it will, it is believed, be readily admitted that so far as commerce and industry are concerned, Bombay surpasses them. The only reference to the possible effects of the new system of electing members to the Federal Assembly on commercial and industrial interests is to be found in the last sentence of the first sub-paragraph of paragraph 143, Vol. II, of the Report in which the Commission say :—

> " We have also assumed that the members in each provincial Council filling special constituency seats (Commerce and Industry, &c.), will be divided between the different communities in about the same proportions as at present."

Whether this assumption will turn out to be correct is doubtful. The question, therefore, of proper representation of commercial and industrial interests in this Presidency appears to call for consideration.

(2) Two Honourable Members are in favour of indirect representation; all the other Members of Government favour a system of direct representation.

(3) The Government of Bombay do not agree to the recommendation that the allowances provided for the members of the Federal Assembly representing the provinces, should be a charge on provincial revenue. The Federal Assembly will meet to discuss the legislative and financial business of the Federal Government as distinguished from matters of purely provincial concern. It is, therefore, but fair that the allowances payable to its members should be a charge on central revenues.

(4) The proposal that casual vacancies in the Federal Assembly should be filled by nomination by the Governor is also not accepted. It is likely to be objected to on the ground that it does not assure to the various communities and interests their present proportion of representation. It is suggested that it should be laid down by rule that the new member elected to fill such a vacancy shall be a representative of the community or interest to which the late member belonged.

(5) The proposals for the constitution of the Council of State are accepted subject to the following suggestions :—

(*a*) that the Governor General should consult the Governor before nominating representatives of this Presidency;

(*b*) that the proportion between nominated and elected members should be modified by increasing the elected element; and

(*c*) that to ensure that suitable members may be available for the Upper House under the system of indirect election the qualification for membership of the Council of State should be raised. On the Commission's recommendation suggesting the representation of Bombay City on the Council of State by two members representing Commerce, the opinion of the Local Government is divided.

11. *Part IV, Chapter* 2.—The Government of Bombay are unable to accept the proposals for the constitution of the Central Government contained in this chapter. The Commission recognize that it is necessary that the Central Government should be a strong one. But it appears very doubtful whether their proposals will really bring about such a result. The last ten years have witnessed the anomaly of an irresponsible executive faced by an elected legislature armed with extensive powers, with the result that, though in theory the irresponsible executive should have been strong, in actual practice its position has been very considerably weakened. The Commission propose to continue exactly the same system with

the small changes that the Governor General in Council shall appoint the members of his Council and the Commander-in-Chief will no longer be a member either of the executive Government or of either of the legislatures. The suggestion is also made that, in future, members of the Executive Council should generally be selected from among the elected members of the legislature. It is not clear how the new executive is to be any stronger than its predecessor. In the new Federal Assembly the Governor General is to have power to nominate not more than 12 officials exclusive of the members of his Council who will be *ex-officio* members. In addition, he may nominate two Anglo-Indians if they fail to obtain two seats by election and he has power to nominate 11 members for the backward tracts; that is to say, the official *bloc* will be 18 members *plus* 11 from the backward tracts who will probably support Government. The other nominees from the North-West Frontier Province, Baluchistan, Coorg, Delhi and Ajmer-Merwara will probably not always be on the side of Government. Taking the strength of the Assembly to be 280, it would appear that Government would have a *bloc* amounting to about 10 per cent. of the total strength. The Central Government will, therefore, be in a worse position to pass its measures through the new Federal Assembly than is the present Government in the Legislative Assembly. The Government of Bombay are of opinion that in lieu of the constitution suggested by the Commission, a more appropriate form of constitution for the Central Executive and one which will probably go further to satisfy Indian aspirations may be to have a constitution under which the Army, Foreign Affairs, Indian States and existing External Debt will be put directly under the Viceroy and administered by him, the power to raise new loans resting with the Government of India while all other departments will be transferred to Ministers responsible to the Federal Assembly. The main objection to such a constitution would be the difficulty in arranging for the proper representation of Military and Foreign Affairs in the Legislatures. Without such representation these departments would be likely to suffer, both financially and otherwise. An alternative will be to have a true dyarchial constitution under which the Army, Foreign Affairs and Indian States would be entrusted to Members not responsible to the Assembly, all other subjects being handed over to Ministers responsible to it. It is difficult to say which of the above forms of constitution will be most in accordance with Indian sentiment. It is considered that even among the most advanced sections of Indian politicians it is admitted that, for the present at any rate, the reservation of the Army, Foreign Affairs and the Indian States is unavoidable and that they would be prepared to accept these reservations so long as they obtain the control of the other departments of the Central Government. It may be objected that in the present political turmoil in the country the transfer of the Home Department to a Minister responsible to the

Assembly would be risky, and similarly that the transfer of the Finance Department would lead to so great a loss of confidence among the investing public as to endanger the financial stability of India. The Government of Bombay, however, consider that any risks that may be involved in the transfer of these departments to responsible Ministers must be faced to put into effect the spirit underlying the Reforms. It has to be remembered also that the Commission themselves have agreed to entrust to responsible Ministers in the provinces the departments of Law and Order and Finance. The Ministers in charge of Law and Order in the provinces will have to face the responsibility of actually dealing effectively with civil disturbances to a far greater extent than the Home Minister at the Centre will have to do. The provincial Finance Ministers will have to administer the provincial revenues, which, in the aggregate, do not fall far short of the central revenues. If such responsibilities are to be entrusted to provincial Ministers responsible to their legislatures it seems an anomaly that the same responsibilities at the Centre should not be entrusted to Ministers responsible to the Central Legislature. I am to add that one Honourable Member dissents from the proposals made above and considers that the recommendations of the Commission regarding the Central Executive should be accepted as they stand.

12. *Part IV, Chapter* 4.—The proposals regarding the Central control over the Provinces in paragraph 182 of the Report are accepted by the Government of Bombay with one dissentient subject to the suggestion that item (2) (matters which may, in the opinion of the Governor-General, essentially affect the interests of any other part of India) and item (6) (safeguarding of Imperial interests) need further definition.

I am to suggest that in the exercise of its control by the Centre care will have to be taken to avoid any action which might antagonize the Provincial Ministry and put it at variance with the Governor. Similarly, there should be no suggestion that a Minister responsible to a Provincial legislature is in any way bound to carry out orders of a responsible Minister at the Centre in his department.

13. *Part V.*—The Government of Bombay are unable to accept the Commissions' recommendation that the Army in India should be wholly under the control of the Imperial Government and that, independently of the forces controlled by the Imperial Government, the Government of India, in co-operation with the Central Legislature, might consider the practicability of organising a purely Indian military and naval force. In the present financial condition of India, the organisation of a purely Indian army, independently of the Imperial forces, is impracticable; and the Commission's recommendation, if carried out, would only have the effect of making the organisation of a Dominion army able to undertake the defence of India, independently of the Imperial army, and the consequent attainment of full Dominion Status an impossibility. The

Government of Bombay consider that Indian sentiment would prefer to see a Dominion army built up under the orders of the Commander-in-Chief and that it should remain under his control. It will resent most strongly the suggestion of a superior Imperial army and an inferior Dominion army. The aim, therefore, should be to accelerate the pace of Indianisation in the existing army as far as possible. To fulfil this aim there should be an increased number of military training schools in India and one or more Indian Sandhursts should be established as soon as possible. The field from which candidates for commissioned rank in the army should be taken up should be widened and the age limit for candidates for the schools should be raised. The territorial forces should not be substituted for the regular army, but should remain a part of it and should be developed, as far as finances permit.

14. The Government of Bombay are also unable to agree to the proposals regarding the manner in which the Imperial army is to be utilised for internal security purposes. If the suggestion that the demand for troops for internal security should only be put forward by the express authority of the Governor of the province concerned or, in cases of emergency, by the Minister in the first instance, subject to the demand being endorsed at the earliest possible moment by the Governor, is accepted, it would appear inevitable that where an emergency arises requiring the aid of Imperial troops, there will almost certainly be delay in obtaining them. The Minister would hesitate to take the responsibility of calling for them without first obtaining the Governor's assent; and the unwillingness of the military authorities to take any part in the suppression of civil disturbances,—which is notorious and at the same time understandable,—would probably lead them to insist on the Governor's orders being obtained before they would supply the troops required. The delay might have very serious consequences for the civil authorities. The further suggestion that as a safeguard against excessive use of the military, financial adjustment should be made between provincial and central revenues, if necessary, by arbitration, would inevitably entail a still further risk of delay in demanding troops in cases of emergency. While fully realising the necessity of troops only being employed in absolutely the last resort, the Government of Bombay fear that, if they knew that, in the event of the emergency not proving so serious as they anticipated, the Presidency might be involved in heavy extra expenditure at the instance of the army authorities, who would, in all probability, take the line that the calling in of troops had not been justifiable, both the Governor and the Minister would be tempted to put off calling in military assistance to the last moment, when it might perhaps, in some cases, be too late to be of any use at all. The risk involved in these recommendations appears to call for very careful consideration. The Government of Bombay are of opinion that the present statutory power of the District Magistrate to call out troops for internal

security purposes should be retained, as it facilitates prompt action in cases of emergency when delay would often lead to very serious consequences. It is also suggested that in connection with the provision to be made for internal security, the revival of cantonments at large industrial centres like Sholapur, Sukkur, Hubli, etc., should be considered. The Government of Bombay are fully aware that from the point of view of military efficiency such scattered cantonments are not satisfactory, but consider that the reduction in the number of troops and of cantonments which has taken place in the Bombay Presidency since 1900, from the point of view of internal security, has been too drastic. During the period 1900—30 there has been a reduction from 25 to 17 units, viz., a reduction of 32 per cent., while the cantonment stations have been reduced from 20 to 9, viz., by 55 per cent., not counting Belgaum which used to have 4 Infantry Battalions and a battery of Artillery and Jacobabad where one Cavalry Regiment was maintained. Recent experience has proved that in such large centres containing the usual large unruly elements to be found in all big cities the maintenance of law and order, especially at a time when one of the periodical outbursts of communal or political agitation to which India is always liable is prevailing, would be very greatly facilitated if trained troops were available on the spot to deal at once with any local riots which may occur, and the location of such troops would prevent a great deal of the loss and suffering which are apt to occur when they are not so available. From the point of view of internal security, the moral effect of the permanent presence of troops in such large centres is of the greatest importance.

15. *Part VIII.*—Regarding Chapters 1—3, which are in the main historical and descriptive, the Government of Bombay have no comment to make, except the general one that since Sir Walter Layton wrote his report the financial position of this Presidency has altered definitely for the worse. In particular, the concentrated attack which has been made on the excise revenue seems likely in the current year to reduce the expectations of revenue from this source by some 70 lakhs; and whatever may be the political situation in the next and following years, it seems certain that this revenue will not be recovered in full.

16. In Chapter 4 the report discusses the possibility of various new taxes and the methods of administering them. Subject to the remarks which follow the Government of Bombay accept in general the conclusions drawn in this chapter.

(1) *Tax on agricultural income.*—The Government of Bombay, by a majority, are in favour of abolishing the total exemption of agricultural incomes, and accept the view of Sir Walter Layton that the exemption should gradually be removed. The minority would retain the exemption or would modify it only to the extent of including agricultural income for the purpose of determining

whether an income is taxable or not. It is difficult to form any reliable estimate of the revenue from this source. An estimate which has been prepared puts it roughly at 25 lakhs.

(2) *Death Duties.*—The Government of Bombay re-affirm the opinion they gave to the Royal Commission in favour of the early introduction of these duties.

(3) *Excise Duties.*—The Government of Bombay accept the proposal to introduce excises on matches and tobacco. The difficulty in regard to both these taxes hitherto has been in the method of collecting them provincially. The system of central collection now proposed by the Statutory Commission undoubtedly simplifies the problem. It is unnecessary in this report to enter into details, in regard to which separate communications have already been made to the Government of India. In regard to matches the Government of Bombay desire only to lay stress upon two points. Firstly, they agree with the recommendation of the Tariff Board that the duty in the first instance should be moderate, and they have recommended, therefore, that it should not exceed Rs.1-8-0 per gross of boxes. It should be possible with this rate to assure that the whole of the increase (approximately) shall be absorbed into the Exchequer. Secondly, they support the view of the Tariff Board that if an excise duty is levied it should be " accompanied by a corresponding increase in the import duty, so as not to trench upon the degree of protection afforded to the industry ".

In regard to tobacco, the Government of Bombay accept the proposal to put an excise duty on factory-produced tobacco. They consider that it should be accompanied by a tax on the retail sale effected by the issue of licences to sell tobacco in all towns and large villages. The taxation of the manufacture of bidis, which appears theoretically just if an inequitable burden is not to be put upon the manufacture of cigarettes and cigars, presents considerable difficulty, owing to the fact that at present in this Presidency at any rate, the manufacture is very largely a cottage industry. If the maximum revenue, therefore, is to be obtained from the taxation of tobacco, the Government of Bombay are inclined to favour the system already introduced into several States, of a licence to cultivate.

(4) *Terminal Tax.*—The Government of Bombay are of opinion that the proposal does less than justice to the theoretical objections to this tax. They hold, moreover, that the Report has failed to give due consideration to the fact that at present the terminal tax is one of the taxes allotted to local bodies. In this Presidency no less than 31 municipalities have already imposed a terminal tax, and the difficulties which the Local Government will encounter in its dealings with local bodies and with the States appear to have been overlooked. It seems likely, in view of the needs and

attitude of the local bodies, that even if the Provincial Government undertook to collect the general tax it could hardly escape handing over the proceeds to all the local bodies affected, including those to whom permission to introduce the tax had hitherto been refused. Such benefit, therefore, as the Local Government would stand to gain from its general introduction would be only indirect: and the Government of Bombay are not prepared to support the proposal.

(5) *Local cess on land.*—The view expressed in paragraph 275 of the Report is accepted. Local Boards have already been given authority to raise the rate of the cess for the purpose of assisting to finance primary education.

17. *Chapter* 5.—The Government of Bombay, subject to the remarks which follow, accept the general principles laid down in this chapter relating to the distribution of revenues. The only controversial one from the point of view of Bombay is the proposal to distribute the centrally collected taxes on the basis of population. This is a principle which the people of the Bombay Presidency have always resisted for the obvious reason that while their population is only some 8 per cent. of the whole population of British India, their percentage of expenditure is about double this. On the other hand, it is recognised that the *per capita* basis of distribution is the simplest automatic test which can at the same time command public confidence and suitably benefit the backward provinces. Used then as a " corrective " to adjust inequalities between provinces, and restricted to a suitable proportion of the centrally collected revenues, the principle enunciated in paragraph 284 could be accepted. It is in the application of the principle, therefore, that we must look for its equity. If the principle be extended to the whole fund of the centrally collected taxes, the benefit to other provinces, more densely populated, but whose financial needs are far less pressing than those of Bombay, is out of all equitable proportion. In view of these comparative results, the Government of Bombay hold that it is clear that some other basis of distribution is called for which will take into consideration the financial needs of a province as well as its population. Since needs can only be determined by obligatory expenditure on essential services, it is possible that agreement on this question can only be attained after expert enquiry into the conditions of the various Provinces. If this is so, the Government of Bombay would welcome such an enquiry. It is certain that with the fall in the Excise Revenue, a fall which is no longer a threat of the future, but which has already occurred, the Government of Bombay can no longer hope to carry on with the revenues remaining at their disposal. They are, therefore, compelled to apply for a preliminary adjustment which can meet their outstanding needs before the application of the automatic principle.

18. *Chapter* 6.—*Application of the principles and allocation of existing revenues.*—Taking the recommendations in the order in which they come, the Government of Bombay have already accepted in theory, for the practical convenience of the administration, the re-arrangement which sets off an excise duty on foreign liquor against the surrender of certain non-judicial stamps. But in the calculation of the financial results of this arrangement they are unable to accept without modification the view of the Report that these two items will cancel one another. The revenue from stamps ought in the ordinary course of business to go up, while there is more than a possibility that the receipts from an excise on foreign liquor will go down.

19. *The Income-tax.*—Though the Government of Bombay are still of the opinion that a more equitable distribution would be of the total income-tax collected in the province and are not convinced that the difficulties of this solution are insuperable, still they do not desire to press this view, provided that an equitable solution can be found for the distribution of the centrally collected taxes. On this understanding they accept the proposal contained in paragraph 293.

20. In regard to the proposed schedule for the transfer of revenues it seems likely that the conditions which have supervened since Sir Walter Layton drafted his proposal have made his estimates so hypothetical that it may be impossible for the Government of India to agree to the proposed time-table. However that may be, the Government of Bombay desire to press on the Government of India that it is essential that a schedule of some kind should be prepared in order to avoid any danger of caprice in the allocation of revenues. While it may be admitted that the times and amounts for transfer, which are subject to the condition that a surplus is available, must depend upon the judgment of the Central Government, at any rate the order of the revenues for transfer can be determined by schedule, and the transfer can be made a first charge on any recurring surplus, with the additional condition that delay extending beyond a specified period shall be made good to the extent possible in subsequent years.

21. Coming to the new Provincial Taxes, the views of the Government of Bombay on the Agricultural Income-tax and Terminal Taxes have already been given. The Government of Bombay accept the proposal that the Provinces should be permitted to levy a surcharge on the income-tax.

22. *The Provincial Fund.*—The Government of Bombay have in a former paragraph implicitly signified their acceptance of this proposal, but have qualified their agreement to the distribution on a *per capita* basis by the proviso that the distribution of so large a proportion of the total revenues of the country on this basis does in

fact lead to inequity, and should, therefore, be modified by the introduction of some other basis.

23. *Chapter* 7.—The Government of Bombay have no comments to make on the proposed constitutional machinery. It seems to follow naturally from the general recommendations of a federal scheme of Government. They only desire to point out that the desirability of dispensing with annual Finance Bills when there are no changes in the taxation suggested, referred to in Chapter 1, Part IV (paragraph 160) of the Report, applies with even greater force to the proposed Provincial Fund. They recommend that the legislation imposing the excise duties should not be voted every year but only when the Inter-provincial Finance Council has decided to make proposals for changes, which make it necessary to do so.

24. In regard to the separation of Provincial Balances, the statement in paragraph 310 is not in accordance with the views on provincial autonomy hitherto generally accepted by Provincial Governments and referred to by the Reforms Inquiry Committee in 1924. But the Government of Bombay do not wish to press for the immediate separation of balances, and agree that the question should be left open so that any Provincial Government which desires to do so could be permitted hereafter to maintain separate balances subject to suitable arrangements being made as to detail. They assume that the Government of India would take steps in the meantime to carry out the suggestion made in the Report that no undue profit shall be made out of the business for the benefit of the Central Government.

25. The proposal for the complete separation of Accounts from Audit is in accordance with the views of the Government of Bombay already given to the Government of India.

26. The Government of Bombay welcome the proposal to set up a Provincial Loan Council, and recognise that its functions must in the first instance remain advisory.

27. *Part IX.—The Future of the Services.** (1) As regards the retention of All-India recruitment by the Secretary of State for the " Security Services ", and possibly for the Irrigation and Forest

---

* Telegram from the Government of India, Reforms Office, to the Government of Bombay, No. 2940-S., dated the 31st August, 1930.

Please refer to paragraph 27 (1) of your letter, dated the 13th August, No. 1/161. Government of India are not clear whether Bombay Government intend to recommend the continuance of recruitment for Irrigation service on an All-India basis either through the Secretary of State or Public Service Commission, or whether they contemplate this service being provincialised. Very early reply is requested.

Telegram from the Government of Bombay, to the Government of India, Reforms Office, dated the 7th September 1930.

Your 2940-S. of the 31st. Bombay Government recommend the continuance of recruitment for Irrigation service through Public Service Commission on an All-India basis.

Departments, the Commission have differed from the recommendations of the Lee Commission who came to the conclusion that when a department is transferred, All-India recruitment by the Secretary of State in it should cease. If the Statutory Commission's recommendations for the Provincial Governments are approved, all the departments will be transferred to the control of Ministers. The retention of All-India recruitment by the Secretary of State for these departments will entail the anomaly of the servants of a Government responsible to the legislature being appointed by an authority outside India, especially in the case of Indians. The Government of Bombay by a majority, therefore, adhere to the recommendation which they made to the Indian Statutory Commission that, in future, recruitment for the All-India Services should be carried on by the Central Public Service Commission. They consider that a European element is still required in these services and that if recruitment is carried on by the Central Public Service Commission, officers of the required standard will be obtained provided there is a guarantee of continuity of service and of reasonable protection by the Governor-General in Council. They consider that the emoluments of the officers recruited by the Public Service Commission should be votable. The minority is of opinion that recruitment by the Public Service Commission will not result in candidates of the required attainments and qualifications being obtained and is in favour of retention of recruitment by the Secretary of State. A suggestion was made for the consideration of the Government of India that recruitment by the Secretary of State for All-India Services should be continued for 10 years at the expiry of which the question should be reconsidered.

(2) As regards the Commission's recommendation that the Secretary of State should continue to have the power to prescribe the number and conditions of appointment of I.M.S. Officers to be employed in the provinces, the majority of the Government of Bombay feel that the principle adumbrated for the other Services should be adhered to in the case of the I.M.S. also. They realise, however, that in the case of the I.M.S. there are implications in connection with the Army which may make it difficult to do this.

(3) In regard to the recommendation that the rates of Indianisation laid down by the Lee Commission for " Security Services " should be maintained the Local Government is divided. One Member and one Minister are in favour of the examination at Allahabad and London being held by the Indian Public Service Commission, the results merged and the best men selected. Another Member suggested that if these examinations are to be held in London and Allahabad the number of candidates to be chosen by examination each year should be fixed after deduction of nominations required to secure communal representation in the Services and should be divided in the ratio of 50 : 50 between London and Allahabad. Another suggestion made is that the rate of Indianisation suggested

by the Lee Commission should be reduced to 33 Europeans to 67 Indians by 1939 for the Indian Civil Service, and 1949 for the Indian Police Service. The remaining Members favour the retention of the rates of Indianisation suggested by the Lee Commission as far as possible.

(4) The recommendation that as regards the existing members of any All-India Services for which no further recruitment will be made they should, following the recommendation of the Lee Commission, retain all the rights of the All-India Services is accepted. The Government of Bombay also accept the recommendation that the privilege of premature retirement should be extended without limit of time to any officer who might, under the present rules, have so retired upon the coming into force of the new constitution, and that the existing safeguards provided in the Government of India Act and the statutory rules made thereunder to secure the position of the Services should continue as at present.

(5) The Government of Bombay agree that officers' pensions and the Provident and Family Pension Funds should be safeguarded.

(6) If the recommendation of the Local Government as regards recruitment by the Public Service Commission is accepted, the Commission's recommendation that as regards future recruits to All-India Services the Secretary of State for India should be under an obligation, if need arise, to see that such officers are treated in the spirit of the recommendation of the Joint Select Committee in regard to the Services and that he should have power to take the necessary measures automatically disappears.

(7) The recommendation that additional pensions should be given to Governors of Provinces who belong to the Services is accepted. While recognising that the appointment of Governors from the I.C.S. is a reward which may enhance the attractions of the Service from the recruitment point of view, the majority of Government are of opinion that Governors should not be appointed from the Services.

The recommendation that some increment to the pension of a Member of the Civil Service who, being selected by a Governor to be a Member of his Cabinet, has to retire earlier than he would have done if he had not been so appointed is not accepted, as the Government of Bombay do not agree to the recommendation that the Governor should have power to appoint an official as a Cabinet Minister.

(8) The Government of Bombay accept all the recommendations made by the Commission with regard to the Public Service Commission.

28. *Part X, High Courts.*—On principle, and still more on administrative grounds, the Commission's proposal to centralise the High Courts cannot be accepted. When recommending the centralisation of the High Courts, the Commission appear to have failed to realise that, besides the Judges of the High Court, the judicial

organisation in the provinces comprises the district judges, subordinate judges, magistrates, and other judicial officers. Before appointments to the district and subordinate courts are made, the High Court is invariably consulted by the Local Government; and it is essential that the existing relations between them should be maintained. As stated by the High Court in their Memorandum* to the Indian Statutory Commission, the appointments, transfers and leave of all those officials must necessarily involve a local knowledege and heavy correspondence which is not of sufficient importance to justify the expense and delay which would be caused by its transfer to Delhi and Simla. The relations between the Bombay High Court, the Court of the Judicial Commissioner of Sind, and the Local Government have been cordial and the Government of Bombay do not think that any case has been made out for a change in the existing arrangement.

29. *Part XI.*—(1) The recommendations contained in this Part are based on the principle that the ultimate responsibility for the welfare and government of the people of India shall continue to rest with Parliament and that the largest possible measure of responsibility shall be transferred to the Provinces, and such relaxation of control shall take place at the Centre, as is compatible with the due discharge of its responsibilities by Parliament. The Secretary of State for India will continue as the agent of Parliament in all matters relating to the affairs of India, and it is, therefore, necessary that he should have the powers proposed to be conferred on him to enable him to discharge his duties under the Constitution. But the Council of India which is attached to him as an advisory body stands on a different footing. Though in theory intended to keep the Secretary of State informed of the existing conditions in India and to advise him on questions relating to the affairs of India of which it is intended to have knowledge and experience, it is unable, by virtue of its constitution, fully to fulfil the object for which it was constituted. It is liable to be out of touch with existing conditions. Its members are appointed for a term of years and seldom live in India after their appointment. The pros and cons of each problem are so thoroughly examined in India that it does not seem necessary to have a separate advisory body in London. Indian opinion entitled to consideration is against its continuance. The Government of Bombay are of the opinion that in pursuance of the goal towards which India is advancing it is advisable to transfer powers, as far as possible, from the India Office to the Government of India. The Secretary of State might have expert advisers on the remaining minimum number of subjects—the Services, Finance and the Army. Differences on questions of high policy between the Imperial Government and the Government of India should be settled by negotiation as suggested in paragraph 359 of the Report. Two Honourable Members are in favour of the

* Printed as an accompaniment to this letter.

retention of an India Council reduced in size and with limited duties.

(2) With regard to the view taken by the Commission on the "Fiscal convention," the Government of Bombay suggest that in view of the Commission's definition of the principle of delegation of powers by the Secretary of State to the Government of India, the subjects on which the principle underlying the fiscal convention cannot be allowed should be categorically stated and should not travel beyond the Secretary of State's sphere of control.

(3) The proposals regarding the functions of the High Commissioner contained in paragraph 361 of the Report are accepted.

30. As regards paragraph 5 of Mr. Lewis' letter in which he asks for an estimate of the reception which the recommendations of the Commission have received in the Presidency, I am to state that this reception has been almost uniformly adverse. In quarters where the proposals have not been summarily rejected as unsatisfactory, they have been described as disappointing, retrograde, and reactionary. Even moderate opinion seems to have been gravely disappointed with them. The extremists will, of course, have nothing to do with the Report and have expressed no opinions save those of the bitterest enmity. They condemn it as nothing less than an insult to India and an instrument to perpetuate foreign domination over the country.

The Liberals, Responsivists and the Indian Mercantile Community have been only a degree less severe in their condemnation of the recommendations. They recognise that there are good features therein, but say that these are largely matters of detail and that in essentials such as the constitution of the Central Government, Indian control of defence and the Army, control of finance and fiscal policy, the responsibility of the Central Government to the Central Legislature, freedom from interference of the Secretary of State and control over the Services, the Report suggests no advance. The recognition of the unity of British India and the Indian States and the need for a federal system of Government embracing both has met with some approval.

What may be termed public orthodox Muhammadan opinion is a little more favourable, but goes little beyond the point where the recommendations appear to aid the Muhammadans in their desire to avoid Hindu ascendancy. Similarly the non-Brahmin party publicly express disappointment with the proposals. On the whole, it appears that no section of Indian opinion in this Presidency regards the Commission's Report as much more than an item for discussion at the Round Table Conference.

31. The Press holds much the same views as those given above. Practically all vernacular papers, barring a few unimportant and uninfluential ones, have severely condemned the recommendations as inadequate, out of date and even retrograde. Of the English papers while the "Indian Daily Mail" and the "Bombay

Chronicle " have condemned it as inadequate and an affront to India, the " Times of India " has taken a moderate view. In its opinion while the proposals for provincial self-government are more generous than most people expected, those for the constitution of the Central Government are, on the other hand, bound to be widely condemned. It adds that the proposals for the constitution of the Central Government need to be revised and such revision should appropriately be discussed at the Round Table Conference.

From the Registrar, High Court, Appellate Side, to The Secretary to the Government of Bombay, Home Department, No. 1601, dated Bombay, the 3rd July, 1930.

With reference to your letter No. 7565/2 dated the 28th June, 1930, on the subject noted above, I am directed by the Honourable the Chief Justice and Judges to say that in view of the uncertainty that seems to exist at present as to what form the future constitution of India is likely to take and what the relations between the Central and Local Governments are likely to be under that constitution, their Lordships think that they cannot usefully offer any opinion on the subject at the present moment or add anything to the views they have already expressed in their printed Memorandum submitted to the Indian Statutory Commission, 1928, a copy of which is appended hereto.*

Note by His Excellency the Governor of Bombay.

His Excellency the Governor of Bombay, having circulated the note below to his colleagues and Ministers, has asked that it should be attached to the letter from the Government of Bombay, No. 1/161, dated the 13th August, 1930, on the recommendations of the Indian Statutory Commission.

With reference to the report of the Government of Bombay, Political Department (Reforms Office), No. 1/161, dated the 13th August, 1930, regarding the recommendations of the Statutory Commission, I am submitting for attachment to that report, for your information and that of the Government of India, this letter giving my personal views on what appear to me to be perhaps the most important matters, without going into details on comparatively minor points. In offering these remarks on the aspects mentioned in this letter, I am considering them from the point of view of India as a whole, and not from that of the Presidency

---

* For Memorandum *see* p. 57 of Indian Statutory Commission Report. Vol. XV, Extracts from official oral evidence.

of Bombay exclusively: (1) the Constitution of the Provincial Governments, and the Governors' powers; (2) the Constitution of the Central Government; and (3) the future of the Indian Civil and Police Services.

2. As regards (1), I feel that, assuming that there are in a Presidency or Province a good Legislative Council, experienced and broad-minded Ministers, and infrequent emergencies, the Constitution recommended by the Commission, which, except in some matters of detail, has been accepted by my Government, may be workable; but we have to try to organise, of course, on the possibility that these three assumptions, so far from materialising, may prove in fact to be far from the realities. It appears probable that emergencies may frequently occur, at all events at the outset, in one or other Province, and the Governor concerned will find himself in the position of having either to use his emergency powers, which may antagonise his Ministry, or to neglect the interests of a section of the public. A newly-appointed Governor, in particular if from Home, and with no permanent official of the Cabinet responsible to him, will especially find his position difficult should an emergency arise before he has had time to grasp the conditions in his Province, to discriminate between the claims of various communities and parties, and to learn whose advice he can trust. The absence of any experienced official in the Cabinet, on whom he could rely for advice in dealing with an emergency, will be a conspicuous disadvantage of the new régime, seeing that the Secretaries of Departments will presumably not have the existing right of regular access to the Governor. They will be Secretaries to Ministers responsible to the Legislature, and as such may be put in an awkward position if the Governor calls on them for advice on any particular question. Unless, therefore, the administration runs smoothly and emergencies are infrequent, I have some doubts whether the Constitution proposed for the Provinces will prove workable. I admit that it is very difficult to find an alternative to it, and that there is much to be said for the argument that it is no use having Ministers at all unless they are to be trusted to carry on the administration, with reasonable efficiency and fairness. It is in connection with the Governor's duty to protect the rights of communities that I feel that he may find his relations with his Ministry the more difficult. In the event of a case arising in which the Governor is convinced that the rights of a community are being infringed, he will be placed in the position of having to tell his Ministers that he has no longer any confidence in their judgment of the claims of other communities. Then, even if he does decide to override them and they resign in consequence, he may see them returned at the next election with the same or a larger majority. Consistently with the discharge of his Statutory responsibilities, it would be impossible for him to give way and see a community subjected to treatment which he believed

to be unfair. He would therefore have to decide that the situation is so grave that he must declare an emergency to have arisen and take over the whole administration personally. In this event also he will be faced with difficulty in choosing Ministers on whom he can rely to carry on the administration. He will have no Members of Council on whom he can fall back, and will have to select Ministers from among officials and non-officials none of whom may hitherto have held positions carrying such responsibilities. The selection of his Ministers under such circumstances would be an extremely difficult matter. It may be said that a position such as is described above is not likely to arise frequently. It cannot, however, be ruled out, and under such circumstances it would seem that the Governor is given responsibilities without machinery for reasonable warning of the approach of crises and means of meeting them which would prove workable in practice.

3. With regard to (2), the Constitution of the Central Government, while admitting that, when granting an extensive measure of responsible government in the Provinces, it would appear to be anomalous to retain a wholly irresponsible Executive at the Centre, I feel that the system of dyarchy at the Centre suggested by the majority of my Government has the inherent drawback that the political pressure in the Federal Assembly to which the reserved departments will be subjected is bound to weaken their administration. In the case of the Army, for instance, this is likely to have particularly serious results. The alternative appears to be an irresponsible Executive as suggested by the Statutory Commission, but whether this is likely to be a strong Government, which is essential at the Centre, is doubtful unless it is assured of sufficient support in the Federal Assembly to enable it to pass its measures. This can only be secured by creating a bloc of members who can be relied upon to support Government measures. Such a form of constitution at the Centre would, of course, be opposed by nearly all political parties in India, except possibly some of the Minorities which realise that their chances of securing any real remedy for their grievances from the stronger communities are remote.

4. The choice, therefore, appears to lie between a form of dyarchy at the Centre, under which the reserved departments will be weakened owing to political pressure in the Assembly, and an irresponsible Executive secure of sufficient votes in the Assembly to enable it to carry through its measures, but subject to the opposition of the majority of the political parties, which will not hesitate to stir up difficulties through the Press and platform, and possibly by actual incitement to violence when favourable opportunities occur. I find myself unable to offer any satisfactory solution of the dilemma, but I think that, if dyarchy is decided upon, it would be best, at any rate at the outset, to include law and order, with the Army and Foreign and Political Affairs, as

reserved subjects. Finance will also require special safeguards at first.

5. As to (3)—the future of the Indian Civil and Police Services—I do not think that recruitment for the All-India Services by the Central Public Services Commission is likely to secure European recruits with sufficiently high qualifications to justify the rates of salaries which will have to be paid to them, especially if their emoluments are to be made votable. It may be, and probably is, desirable to retain a European element in the present All-India Services, but it can only be so as long as men with first-class abilities can be secured. Second-class Europeans will not be worth their salaries, and rather than employ them I would prefer to stop recruitment of Europeans for the Provinces. Even apart from the question whether suitable Europeans will be forthcoming in future, it would appear that the question of further recruitment of Europeans for the Provinces calls for very careful consideration.

6. The sole object of retaining a European element in the Security Services is to strengthen the administration. This implies that at least the ratios of European and Indian members of these Services suggested by the Lee Commission must be maintained. So far as can be seen, even under present conditions it is doubtful whether this will prove to be the case. With any acceleration of retirements and diminution in recruitment, such as may probably result from the changed conditions of service under the new régime, it may soon be found that numerically the European element has become so reduced that its presence in the Services cannot appreciably strengthen them. With a system of responsible Government in force, the position of an individual district officer who wants to take a strong line in any matter of administration which may arouse opposition will be extremely difficult. As time goes on the increase in the number of Indian officers qualified for the higher selection appointments, and the natural preference which Ministers might give to them, may engender disappointment and discontent among Europeans, which must affect their efficiency. The reduction in the numbers of Europeans in the Services must also lead to a further increase in their social isolation which, added to the effects of the Indian climate, is likely to have a deleterious effect upon them. The above remarks apply perhaps more to the I. C. S. An increase in the numbers of Indians suited for the higher appointments in this Service is bound to occur fairly quickly owing to their natural adaptability for general administrative duties. The duties of the I. P. S. do not appeal to educated Indians in so great a degree. Some Ministers also may possibly be more inclined to insist on a fairly strong European element in the Police for some time to come. It is, however, to be considered whether the existing European element in both these Services is not sufficiently strong to tide over the period of change to completely Indianised services which must be contemplated if Dominion Status

is to be established in the country, and whether any further recruitment of Europeans is required. To continue recruitment of Europeans, when their presence is not likely to increase the strength of the administration, will add to the cost of the Provincial administration—already a serious financial burden—without any corresponding benefit, and will therefore be a justifiable cause for popular complaint.

7. I realise that European officers will probably be desirable at the Centre for some time to come, and, if recruitment of Europeans for the Provinces is stopped, it will be difficult for the Centre to secure officers with sufficient training and experience for their purposes. This is certainly a difficulty, but I think that for some years the Central Government should be able to obtain a sufficient supply of European officers from those now in the Services. Later on, if it is found that the need for Europeans at the Centre is likely to continue, it should be possible to work out an arrangement under which each Province would undertake to train a quota of officers with a view to employment at the Centre. I would also suggest that at the Centre a small service of experts in general administration, Finance, Engineering, Agriculture, Education, &c., might be maintained, the members of which might be lent as required for two or three years to the Provinces in order to advise their Governments on the matters on which they have expert knowledge. The advice of such experts would be of service to the Provincial Governments, and would help them to keep their departments at a higher standard than is possible when each Province has to depend on its own experience and practice for guidance.

BENGAL GOVERNMENT.

From the Chief Secretary to the Government of Bengal, Appointment Department, to the Secretary to the Government of India, Reforms Office. No. 219 A.C.; Dated Calcutta, the 15th August, 1930.

Views of the Bengal Government on the Report of the Indian Statutory Commission.

I am directed to refer to your letter No. F 67-30 R., dated the 24th June, 1930, on the subject of the recommendations contained in the Report of the Indian Statutory Commision, and to submit herewith the views of the Government of Bengal on such of the recommendations as have a direct interest for them or call for special mention. For convenience of reference the order in which the various subjects have been dealt with in Volume II of the Statutory Commission's Report has been followed and so far as possible an effort has been made to deal with matters of detail in the order in which they are discussed in that report. The Report has been considered by both sides of Government in Joint Meeting and the views expressed are those of Government as a whole.

2. The Government of Bengal are in full agreement with the principles laid down by the Commission that the " new constitution should as far as possible contain within itself provision for its own development " as well as " some element of elasticity enabling adjustments to be made in accordance with the conditions actually obtaining in any given province at any particular time." They consider too that the Commission are correct in their conclusion that the ultimate constitution of India must be federal, if the ideal of a united India as one of the " constituent States of the Commonwealth of Nations united under the Crown " is to be attained.

3. They recognize that it may take years before the ideal is attained and that during this period many difficulties and dangers may have to be faced and overcome. Having regard to the past history of, as well as to the conditions at present existing in the province, they cannot be blind to the dangers of communal trouble and to the risk of the rate of progress being retarded on this account, but they look forward to the time when there will be a united Bengal and the communal danger will have passed away. Meanwhile they agree with the Commission that provision must be made for dealing with such difficulties, dangers and possible disturbances, and that until they have disappeared the presence of British troops and of British officers serving in Indian regiments will be essential; but they hope that as years go on the British proportion will steadily decrease and that India will gradually but at a steadily increasing rate of progress prove its ability to provide troops which are trusted by all sections of the community and can

deal satisfactorily with problems not only of internal security but also of external defence. They recognise also that until the ideal has been attained in matters of civil administration, not only will safeguards be necessary in the interests of minorities but also of the province as a whole and they are satisfied that for these purposes the Governor must be armed with full and ample powers to deal with any emergency that may arise when the ordinary machinery of Government has come to a stand-still or when its powers are seriously misdirected. They agree too that similar reserve powers must remain with the Governor-General in matters affecting the Central Government.

4. The Government of Bengal have given careful consideration to the proposals of the Commission which specially concern the provinces. They are agreed that dyarchy must go and that a unitary Government must be established. It follows, therefore, that they consider that the transfer of all subjects including Law and Order to Ministers is inevitable; but they are agreed that such transfer cannot be made without the provision of safeguards. They are also agreed that the safeguards provided in the Report in the overriding power of the Governor and the presence of an official Minister where the need for such is recognised by the Governor in consultation with the Governor-General are inadequate and illusory. The former will in practice prove to be emergency powers. For in normal times it will not be possible for the Governor to interfere with details of administration and prevent dry-rot setting in, or to act against the advice of his Ministers. He will only be able to act at a very late stage when the administration shows signs of breaking down or when a crisis has actually developed. As regards the latter, the Legislative Council may make the appointment of officials as Ministers impossible by refusing to retain in office a Ministry which is not entirely non-official and the safeguard of having some officials as Ministers will then be non-existent.

5. There is general agreement that there would be many advantages in having an official in the Ministry, as it would facilitate the administration of Law and Order, would increase the chances of maintaining the security services at their present high level and would provide the Ministry with at any rate one member having administrative experience. As regards Law and Order it is to be remembered that the Central Committee came to the conclusion that in Bengal these subjects should be in charge of a Member not directly responsible to the legislature. Further conditions in Bengal are such that for some years to come it will be very difficult to find a non-official who is both able and willing to take charge of Law and Order, and who inspires general confidence. There are also the serious difficulties involved in placing the work of the Criminal Investigation Department under non-official supervision. For as will be seen from paragraph 39 below, Government do not consider that it will be possible for the

Governor-General in Council to determine its organisation in the province. As regards the services there is general agreement that it is essential for the success of any system of reforms that not only should Bengal retain the services of the officers already serving in Bengal but that there must be a reasonable prospect of maintaining the Security Services up to the present standard by regular recruitment on the present lines, and it is recognised that both these objects are more likely to be attained if an official is available to administer the services. Lastly, Government recognise that a non-official Ministry will be greatly handicapped by lack of administrative experience, especially in a presidency like Bengal where a Governor usually is appointed from the United Kingdom and has no experience of Indian administration or provincial conditions.

6. But it is also recognised that however great the advantages may be in having an official in the Ministry the Governor will not in practice be able to appoint an official as a Minister if the Council is opposed to such an appointment being made or non-officials refuse to form a Ministry if an official is included. In practice he will not be able to exercise the powers which he possesses in theory, except with the approval of a majority in the Council and their leaders.

7. So far there is agreement, but there is a difference of opinion as to the action to be taken under these conditions. A few members are so impressed with the need for an official in the Ministry in present conditions in Bengal that they urge that a statutory rule should be framed requiring that in Bengal for the present an official should be appointed a member of the Ministry and made responsible for the administration of Law and Order and the Security Services. They feel that the difficulties in Bengal arising out of the communal problem and the terrorist revolutionary movement can only be met by an arrangement of this kind and that until these have disappeared there must be an official in the Ministry. They also argue that a statutory rule would prevent the risk of the Governor being placed in an unpleasant dilemma. He might, in consultation with the Governor-General, decide that it was necessary to have an official in the Ministry and then find that the majority in the legislature refused to co-operate with him in forming a mixed Ministry. In these circumstances he would either have to give way against his better judgment or bring about a crisis on a matter of opinion. On the other hand, if the appointment was required by rule, the amount of opposition to it would almost certainly be reduced, and if a crisis developed, the occasion would be a refusal to work the constitution and not a difference of opinion on a matter open to discussion.

8. But the other members of the Government feel that the disadvantages of having a statutory rule far outweigh the advantages to be derived from having an official in the Ministry. They consider that such a rule would establish a prejudice against the new

system of Government at the very outset, as it would be interpreted by many as a continuance of the system of dyarchy which they cordially dislike and desire above all to be rid of. It would also raise an intense feeling of bitterness among the opponents of the rule, which would increase the difficulties of administration to a far larger degree than it would be facilitated by the presence of an official in the Ministry. They are therefore strongly opposed to the proposed statutory rule.

9. But if at any time a Ministry is appointed, which includes an official, whether by the Governor with the approval of the legislature and the consent of the non-officials, or under the requirements of a statutory rule, it is recognised that considerable administrative difficulties may arise if such a Ministry is defeated in Council and compelled to resign. There is a difference of opinion as to whether the official should be reappointed by the Governor when forming a new Ministry, but the view generally taken is that unless a Ministry had been defeated and forced to resign in connection with the policy of the official Minister which had met with the approval of the rest of the Cabinet, then there is no objection to the reappointment of the official as a member of the new Cabinet. Another section of the Government hold the view that an official who has been a member of a Ministry that has suffered defeat should not be eligible for reappointment under any circumstances. But against this view it is urged that this is placing on the official member of the Cabinet an embargo which cannot be applied to the non-official members and that it will be disadvantageous to the province as it will reduce still further the number of officials from whom the selection can be made by the Governor. A third view is that with regard to reappointment after the defeat of a Ministry the position of all Ministers including the official Ministers should be the same. It is agreed however that when a Ministry has fallen because of an official Minister's policy, then it will be practically impossible for the Governor to reappoint him as a Minister. It will be necessary in these circumstances either for the official ex-Minister to have the right to retire, in which case he will be entitled to receive an extra pension as recommended in paragraph 335 of the Report, or for the Governor to have the power to appoint the ex-Minister to some other official position. It is agreed that this point is of great importance because the decision on it may considerably limit the number of officials from whom the Governor can select an official member of the Ministry. For apart from the uncertainty in the matter of tenure of office it is recognised that it may often happen that an officer for financial reasons will not be able to take the risk of joining a Ministry if the defeat of the Ministry necessarily has the result of putting him out of employment and compelling him to go on pension earlier than was his intention. It is recognised that a certain amount of risk must be faced by officers, but it is felt that it should

be minimised as far as possible and that no obstacles other than those which apply generally to members of the services should be placed in the way of the re-employment in the ordinary line of an official who has accepted the offer of the Governor to be a member of his Ministry and whose services as such are no longer required. The orders in force which forbid the re-employment of a Member of Council in any other post should therefore be modified.

10. Having considered the possibility or necessity of providing safeguards other than the overriding powers of the Governor the Government of Bengal desire to mention only one suggestion, viz., the addition of a Second Chamber to the constitution and the distribution of the seats in that chamber and in the Legislative Council in such proportions that the more stable elements in the province shall have an effective voice in all matters and be able to prevent the Ministry from taking an extreme or partisan line. The objection to this proposal is that these bodies are legislative, not executive, that they are not in session for more than a small part of the year, and that therefore they provide no safeguard in the matters of daily administration.

11. While there is some difference of opinion on the question whether the Governor should have the power to include an official in his Ministry, there is complete agreement that save an official no person who is not already a member of the legislature should be eligible for inclusion in the Ministry. Some members of Government would go further and make nominated members ineligible. It is also agreed that all Ministers should be members of the Cabinet and there should be no members of Government outside the Cabinet. The other recommendations of the Commission in paragraph 46 of their Report that ministerial salaries " should be alterable only by a provincial Statute regularly passed through all its stages " and that " the only vote of censure which could be proposed should be one against the Ministry as a whole carried after due notice " are also approved. The second of the recommendations is important because the Government of Bengal are agreed that the Ministry must have joint responsibility and that the success of a vote of censure directed principally against one of the Ministers should necessarily involve the defeat of the Ministry as a whole. It is probable that in Bengal in the future as in the past the Ministry will usually be the result of a coalition. Experience so far has shown the fickleness of many of the supporters of such coalition Ministries; and it is hoped that in the future when the supporters of one of the Ministers realize that by joining in an attack on another member of the Ministry they must inevitably endanger the position of their own leader they will be less ready to give support to the personal animosities and hostilities which far more than any differences of opinion on political issues have been responsible for the fall of Ministries in Bengal.

12. On the question whether the Governor should appoint his own Minister or select a Chief Minister and allow the latter to nominate his colleagues, some members are opposed to the proposal to have a Chief Minister. But there is agreement that if there is a Chief Minister, then to start with the Governor should appoint his Ministers in consultation with the Chief Minister but that as the constitution develops the Chief Minister will take a larger part in choosing the other Ministers. It is agreed that the allocation of portfolios should be done by the Governor, but that before making the allocation he should consult the Chief Minister.

13. The suggestion that there should be an official Secretary to the Cabinet is approved, and it is generally agreed that he should be a permanent official. As his duties will be light, it will probably be convenient as at present to combine them with those of some other post.

Some apprehension is expressed of the effect of the suggestion in paragraph 51 of the Report that by means of this official, the Governor " would be kept impartially and fully informed of the course of business." At the same time it is recognised that if the Governor does not preside over the meetings of his Ministry, he may remain in ignorance of important facts affecting the administration. Time will show what is the best method of getting over this difficulty.

14. But it is generally recognised that in addition to and distinct from the Secretary to the Cabinet and whether there is an official Minister or not, there must be a senior official whose duty it will be to keep the Governor in touch with all that is going on and, in a province like Bengal where the Governor is usually appointed from the United Kingdom and lacking in experience of Indian conditions, to give him advice on administrative details. This official should be a senior officer with wide administrative experience, not in charge of or responsible for any department, but attached to the Governor. He should not be Secretary to the Cabinet, but his administrative experience should be at the disposal of the Cabinet if the members desire to avail themselves of it. It is generally felt that there is a great risk under the revised constitution of the Governor getting entirely out of touch with details of administration when his Ministers are mostly if not entirely non-official, and of his being unable to detect or repair defects in the machinery until they have become serious or the machinery has come to a standstill. With an expert adviser on his staff, he will be able to make adjustments and do necessary repairs at an early stage and prevent a serious break-down.

15. On the question whether the Governor should preside over the meetings of the Ministry no definite conclusion has been reached, the general opinion being that this question must be left to the decision of each Governor and that it will solve itself in the course of time. Against the view that the Governor should pre-

side over the meetings it is urged that there is a real risk that in course of time he will be considered as identifying himself with the party or groups from which the Ministry is formed.

16. It is agreed that the responsibility of the Ministry to the legislature should exist for the whole provincial field, and the recommendations of the Commission in paragraph 50 of their Report regarding the purposes for which the Governor should possess overriding powers are accepted. It is agreed that the Governor in exercising these powers must be acting under the superintendence, direction and control solely of the Governor-General and not of the Governor-General in Council. The recommendations of the Commission as regards the Governor's powers to restore rejected demands and to secure the passage of legislation by certification are also approved, and lastly it is recognized that he must have the power sketched out in paragraph 65 of the Report to deal with a state of emergency.

17. The proposals of the Commission regarding the provincial legislature are generally approved save by one member who considers that the prospects of co-operation in Bengal are so gloomy that the distribution of seats in the legislature should be such that a combination of the landlords, the Muhammadans and the backward classes together with the British non-officials will give the co-operators at times a majority and at all times at least an effective minority. His views are given at length in Appendix A. It is agreed that the life of the Council should be five years, but Government as a whole are opposed to the proposal in paragraph 135 of the Report to extend this period—it may be up to seven years—in order to make the expiry of the life of the provincial Council coincide with that of the Federal Assembly. In their opinion representatives once elected to the Federal Assembly should hold office till the expiry of the life of the Assembly and should not be unseated when the Council which has elected them to the Assembly is dissolved. It is also agreed that some enlargement of the Legislative Council is desirable in order to secure manageable constituencies for the election of its members, but it is recognized that if the proposal for a Second Chamber is adopted the increase in the size of the Council must be proportionately reduced. The proposal that it should be open to the Legislative Council to revise its numbers periodically through the method of " constitutional resolution " is also accepted, but one member would prefer that any scheme transmitted under the procedure set forth in paragraph 95 of the Report should be transmitted to the Governor-General in Council, and not to the Governor-General.

18. As regards the constitution of the Council there is irreconcilable disagreement between the Hindu and Muhammadan members of Government on the subjects of communal representation and the proportion of seats to be allotted to the Muhammadan

community. The Hindu and Muhammadan views are forwarded in Appendices A and B to this letter and a further note representing Muhammadan views will be subsequently forwarded. It was agreed that this disagreement should be recognized and that the views of the European members should be submitted to the Government of India. Their view is that, however undesirable in principle communal representation may be, conditions in Bengal are such that the present system must be continued until the two communities agree upon some other method of representation. They consider it most desirable that communal differences should die down; but they regard this as an ideal which is not to be attained in the near future. Consequently they consider that at present, from the point of view of practical administration, separate electorates are unavoidable.

19. On the question of the basis of distribution of seats in the Council between the Hindu and Muhammadan communities the European members are agreed that the present allocation of seats which is based on the Lucknow Pact is unfair to the Muhammadans. They also consider the recommendations of the Simon Commission, which, so long as Muhammadans in other provinces are given weightage, refuse to the Muhammadans in Bengal the position to which their numerical superiority entitles them, to be unsound in principle. In their view it is unfair under a federal system of government to maintain in a position of representative inferiority in one of the states the community which is in the majority numerically, on the ground that in other units of the federation concessions have been granted to the same community. After careful examination of rival schemes they have come to the conclusion that representation on the basis of population is the fairest method of distributing the seats in the general constituencies between Muhammadans and non-Muhammadans and they consider that any weightage that is to be given to the non-Muhammadans in respect of their wealth, education or position should be allowed for in the special and not in the general constituencies. Experience has shown that all seats in non-European special constituencies are occupied almost invariably by non-Muhammadans. They are satisfied that this state of affairs is likely to continue for many years and that any superiority in numbers which the Muhammadans may possess in respect of representation in the general constituencies will be largely, if not more than, counterbalanced by the superiority of the non-Muhammadans in the special constituencies.

20. The recommendations of the Commission regarding the representation of the depressed classes are accepted by the Government of Bengal in principle, but they are not prepared to agree to the proportion suggested in paragraph 80 of the Report, which they consider too high. In their opinion, before any decision re-

garding the proportion is arrived at, it will be necessary to examine the number of people of the depressed classes in the various areas in which they are largely concentrated, and to adjust their representation with some regard to the total representation of these areas. The proposals for European, Anglo-Indian and Indian Christian representation are accepted, but Government are unable to agree to the recommendation of the Commission that the official bloc should be eliminated. Some members consider that for several years to come it will be necessary to have the Secretaries in the various departments present in Council as members of the Council. They urge that it will be difficult for non-official Ministers to have the intimate acquaintance with the business of these departments, which is required to enable them to deal with the innumerable points of detail which are continuously being raised by the members of the Legislative Council, and that it will facilitate the transaction of business by the Ministers if they have the Secretaries of the departments in their charge available in Council to assist them. The other members admit the difficulties in which Ministers will be placed, at any rate at the beginning of the new regime, if Secretaries are not present in Council, but consider that such an arrangement may place Secretaries in a very difficult position, as they may be expected to support by vote and speech measures of which they do not approve.

21. The Government of Bengal agree to the proposal to retain the representation of the Universities in the Council, but they consider that the electorate for this constituency should be changed and limited to the governing bodies, i.e., the Syndicate and the Senate in the case of Calcutta University and the Court in the case of Dacca. They are agreed that such an electorate is more likely to return individuals of the type associated with University constituencies than the present system of making all graduates members of the electorate, which does not tend to the election of candidates of the proper calibre.

22. To the recommendations of the Commission on the subject of the landholders' constituencies the strongest objection is taken by several members of Government. They urge that the landholders who are returned by general constituencies do not represent the landholders' interests in the Legislative Council but are governed by the views of the people in their constituencies and of the political party which has supported them in their elections. A further argument used is that the influence of the landholders' representatives in stabilising the constitution is valuable, and, as it is considered important to introduce into the Council every possible stabilising element, there is general agreement that the separate landholder constituencies should be retained. There is some difference of opinion on the question whether their number should be increased proportionately to the increase in the number

of members of the Council, the majority being in favour of giving the landholders the same proportion as in the present Council. But the actual number must depend on the decision about a Second Chamber.

23. The proposals for the representation of commerce and labour are approved, but Government are agreed that no special steps need be taken to secure the presence of women in the Legislative Council. In their opinion the proposals of the Simon Commission generally in respect of the representation of women are far in advance of what is either required or justified by present conditions in Bengal.

24. The proposals of the Commission regarding nominated members are approved, but the suggestion made above that Secretaries should be members of the Legislative Council will have to be borne in mind in deciding the percentage of the members of the Council to be nominated from other sections of the community.

25. The Government of Bengal are in full agreement with the proposals of the Simon Commission regarding the procedure for introducing alterations into the constitution of the provincial legislature by constitutional resolution subject to the remark made in paragraph 17 above. They accept the proposals of the Commission regarding the legislative powers of the Council and the Governor's powers in relation to legislation and finance, but consider that there should be some safeguard against reckless expenditure by a Ministry before a general election. The safeguard should take the form of power conferred on the Governor to hold up expenditure for a time.

26. On the question of the extension of the franchise opinion is divided, the majority being in favour of extending the franchise in the manner proposed in Appendix V of the Bengal Report. There is agreement, however, that if the franchise is extended it should not be lower than that now in force for union board elections. On such a franchise it is estimated that somewhere about 8 per cent. of the total population would be enfranchised, and Government agree that it would be undesirable to establish some new form of franchise in order to increase this figure to the 10 per cent. recommended by the Simon Commission. Government are agreed, however, in opposing the recommendations of the Commission regarding the qualification of women voters. They consider the proposals not only unworkable in themselves but also inequitable. As stated above, they are agreed that there is no need at present of any special measures to bring more women on to the electoral roll. Further they cannot accept the recommendation of the Simon Commission that after 15 years a second Franchise Committee should be appointed to review the progress that has been made and the suitability of the electoral qualifications then existing, and they are not in favour of accepting any such arbitary

figure as 20 per cent. as the basis of a further extension of the franchise. In their opinion this matter should be left to the Council to deal with by means of constitutional resolution, and there should not be any periodical Franchise Committees appointed solely on a statistical basis without regard to the conditions generally prevailing in the province.

27. They accept the proposal of the Commission that limits should be defined and enforced for election outlay.

28. On the question of a Second Chamber in Bengal opinion is divided, some members being strongly in favour of such a Chamber and the remainder being doubtful. In these circumstances it has been decided to maintain the opinion in favour of a Second Chamber previously expressed in paragraph 10 of Part II of the Bengal Report, 1929. Should a Second Chamber be appointed, they are agreed that the functions should be those previously recommended. The suggestion of the Simon Commission for constituting an expert revising body to which legislative proposals can be submitted between the report and the third reading stages is not accepted.

29. On the questions of the boundaries of the province and of excluded areas and their treatment, there is general agreement that the introduction of whatever reforms are finally decided upon should not await the completion of the labours of the proposed Boundary Committee. This Committee will require a very long time to investigate fully the proposals for the revision of boundaries, and it is considered undesirable to keep the province indefinitely in a state of tension pending an enquiry into a matter which will not affect Bengal very much. One member suggests that the Boundary Committee might consider the restoration of the Eastern-Bengal and Assam province, but the general feeling is that it will be a great mistake to complicate the introduction of reforms by the revival of the controversies connected with the birth and death of that province. There is general agreement that when the Boundary Commission is set up, it should have definite terms of reference given it by the Government of India and that it should not be open to any one to raise new boundary questions before it.

30. Enquiries are being made as suggested in paragraph 128 of the Report as to whether Darjeeling should continue to be in any degree excluded from the normal constitutional arrangements of Bengal, and the result of these enquiries will be reported later when they are completed. The proposals of the Commission regarding excluded areas do not meet with the approval of the Government of Bengal. The only area of this kind with which they are concerned is the Chittagong Hill Tracts, and they propose that this area should continue to be administered in the same manner as at present *mutatis mutandis*.

31. The Government of Bengal have examined with interest the proposals regarding the Central Government and the general feeling is that too little attention has been paid to the need for

strengthening the Central Executive *vis-a-vis* the Central Legislature. The need for a strong Central Government is daily becoming more and more evident, and the Government of Bengal view with apprehension any proposals which will weaken rather than strengthen the position of the Executive at the centre. In their opinion good administration in recent years has been hampered by the weakness of the Central Executive *vis-a-vis* the Central Legislature, and they consider that in some respects the proposals now put forward will render the position of the Executive even worse than it is at present. They have been specially struck by the fact that in paragraph 179 of the Report the Commission accepts, apparently without any misgivings, the fact that their proposals for the composition of the Federal Assembly will give the Government an even smaller proportion of the votes in the Assembly than it has at present. One consequence will be that this will render the task of the Executive in getting through the Assembly measures which they consider essentially necessary in the interests of good administration more and more difficult and will throw a heavier burden than ever on the shoulders of the Governor-General as regards the use of his emergent powers. The Government of Bengal are agreed that there can be no retrogression at the centre, but they do not consider that the strengthening of the position of the Executive in the Legislature can be classed as retrogression. The Commission have deliberately rejected any proposals for dyarchy or divided responsibility at the centre, and in paragraph 173 they have expressly stated that the Governor-General in Council cannot be responsible to the Indian legislature in the same sense as a British Cabinet is responsible to the British Parliament. The Executive therefore will have a very heavy burden to carry and the Government of Bengal consider the Commission is wrong in weakening instead of strengthening the position of the Executive in the legislature.

32. Apart from these general comments the Government of Bengal accept the proposals of the Commission for the formation of the Federal Assembly by means of indirect election on the basis of proportionate representation, although one or two members of Government are apprehensive of the possible effect this method of election will have on Muhammadan representation unless Muhammadans are represented in the Provincial Council on a population basis. But Government are opposed to the proposal that the same individual should be allowed to sit in both the Provincial Council and the Federal Assembly. Both these bodies are likely to be in session about the same time, more especially during the budget session, and it is most undesirable that either body should not be able to count on the services of all its members when important business is to the fore. A member of the provincial legislature who becomes a member of the Federal Legislature must resign his seat in the former.

33. While there is general agreement that the system of proportionate representation should be followed in electing members to the Federal Assembly, some members of Government, in order to avoid the danger of a reduction in the Muhammadan representation owing to a split in their votes, are in favour of having a minimum number of seats reserved in the Federal Assembly for each community. They consider that such a suggestion would in part meet the difficulties of other communities in other provinces. The Muhammadan members claim that the minimum should be 33⅓ per cent. of the seats in the Federal Assembly, but this claim is strongly opposed by the Hindu members, who urge that if representation in the province is to be on a population basis the same criterion should be applied in the Central Assembly, and is not supported by the Europeans. Other members of Government feel that such a proposal for reservation of seats is undesirable and will encourage disunion among the Muhammadan members of Council in Bengal. The sole ground for separate electorates and proportionate representation is to secure adequate representation of communities, and if the representatives of any community in question put personal animosities above communal interests then the community must take the consequences.

34. The Government of Bengal are opposed to the suggestion of the Commission that allowances paid to the members of the Federal Assembly should be charged on provincial funds. In their opinion charges on account of a central body should be paid from the central fund. They agree to the proposal that the life of the Assembly should be five years, but they are of the opinion that the Governor-General ought to have the power to dissolve the Assembly and order a fresh election if at any time he considers such a course necessary. This is all the more necessary if the proportion of Government members in the Federal Assembly is to be reduced. For a position may occur in which the Executive is up against the majority in the Federal Assembly, but the Governor-General believes that the views of the majority in the Assembly do not properly represent the feeling in the Federal States. In such circumstances it ought to be possible for him to dissolve the Assembly and have a fresh election and so ascertain the opinion of the federal units before being compelled to consider, if necessary, the question of using his emergent powers.

35. They agree that seats in the Federal Assembly should be allowed to the federal units on a population basis, but they are not in favour of increasing the size of the Assembly, more especially if with an increase in the size the proportion of Government members is to be reduced. If election to the Federal Assembly were direct, there might be some justification for increasing its size so as to reduce the size of the electoral areas; but the same necessity for an increase in numbers does not arise when the method of election is indirect and the electoral bodies are the Councils in the

federal units. They agree that there should be nominated official members of the Federal Assembly in addition to the members of the Governor-General's Council. They approve also of the recommendations for the representation of the Indian Christians and Anglo-Indian minorities. They accept the proposals made for filling up casual vacancies as being the best way out of a difficulty. They do not like the principle of substituting a nominated member for an elected member, but they recognize that any other method of filling the vacancy might lead in the course of the life of the Assembly to considerable changes in its composition.

36. They agree that the Council of State should be retained and that its life should be seven years, but they are not in favour of the proposals for its composition. They would prefer to continue it in its present form and with its present electorate. They are not in favour of any special arrangements to secure the presence of women in the Council of State and are opposed to creating any women's franchise for that body.

37. As regards the powers of the Central Legislature they accept generally the proposals of the Commission subject to the general remarks made above about the necessity of strengthening the Executive *vis-a-vis* the Legislature. The proposals regarding its financial powers and the division of resources between the Central and the Provincial Governments will be dealt with later in discussing Sir Walter Layton's proposals. On the question of the constitutional position of the Governor-General in Council the Government of Bengal are agreed that the decision of the Commission not to introduce dyarchy at the centre is correct. They consider that the objections stated in the Report against dyarchy in the provinces are conclusive against the introduction of any such system in the centre. They approve, therefore, of the proposal to maintain the present position of the Governor-General in Council and to have the Governor-General as the actual and active head of the Government. They can see no advantage in the proposal to place upon the Governor-General himself the responsibility of selecting and appointing the Members of his Council, and would prefer the present arrangements to continue. As they are not in favour of any changes in the present arrangements they consider that the proposal that the Commander-in-Chief should no longer be a Member of the Executive Council and should not sit in the legislature is a mistake. They recognize that in the past difficulties may have arisen, but they consider that the adoption of this proposal will only increase the difficulties of the reformed Government. They agree with the proposal to have a Member of the Governor-General's Council to lead the House and consider the present position, under which a Member in charge of an ordinary department has to undertake the duties of the leader of the House in addition to his ordinary duties, is an impossible one, and tends to weaken the position of the Central Government *vis-a-vis* the

Assembly. They have no objection to the non-official members of the Executive Council being drawn from the ranks of members of the Central Legislature, provided it is recognized that this does not involve any theories of the Central Government being responsible to the legislature; one member of Government would like a provision that the majority of the Council shall be Indians.

38. On the subject of the relation between the centre and the provinces the Government of Bengal are agreed that the proposals of the Simon Commission should be accepted, and that the methods of influence and assistance recommended in their Report are sound. They agree that the Central Government should be able to control the financial policy of the provinces so far as loans are concerned. In emergencies they agree that the control must be exercised by the Governor-General through the Governor and not by the Governor-General in Council through the Governor in Council.

39. There is one point, however, in these recommendations to which the Government of Bengal take strong exception, and that is the recommendation in paragraph 190 in respect of the Criminal Intelligence Department. They consider that it is impracticable for the work of that department in the provinces to be conducted by means other than those of the regular police administration, and that it will be impossible for the Governor-General in Council to determine the conditions of the organization of the Criminal Intelligence Department in the provinces.

40. On the subject of the Commission's proposals regarding the Army the Government of Bengal do not propose to offer any detailed remarks. Their general conclusion is that the reasons advanced for making the changes proposed in the Report are insufficient and that it is most desirable that the existing arrangements should not be altered at present. The proposed changes will not remove the legitimate agitation that is conducted in connection with the Army in India. There is undoubtedly a very general desire that the process of Indianisation in the Army should be hastened and everything possible should be done to attain this end. In the view of the Government of Bengal the number of army schools and army training institutions in India should be increased and definite steps should be taken to provide a much larger number of recruits than at present for the manning of the superior ranks in the Army; and development on these lines is much more desirable than the constitutional changes advocated by the Simon Commission. The Government of Bengal are in full agreement with the suggestion that the Imperial Government should contribute to the cost of the Army in India in respect of matters affecting Imperial interests, and recommend that if such an agreement is arrived at it should not be made in a niggardly fashion. They consider too that the present system under which the Army Department contracts to carry on within a fixed sum each year should be continued so that as many causes of friction as possible may be

removed. There is one suggestion, however, to which they take the strongest objection, namely, that every demand for Imperial troops for the purpose of quelling disturbances and maintaining order should be put forward by the express authority of the Governor of the province himself. In their opinion, if there is a unitary Government and joint responsibility, it is unwise to transfer the responsibility for the use of troops from the Ministry to the Governor in person.

41. On the question of the separation of Burma the Government of Bengal desire to express no opinion, although it is obvious that Bengal like the rest of India will be intimately concerned in the financial questions that will arise for settlement if separation is effected. Nor do they desire to express any opinion about the questions regarding Indian States.

42. The proposals regarding the Services they consider to be specially important, for they feel that at times it is not sufficiently recognized that the steady progress of India towards the ideal set forth in the preamble to the Government of India Act depends very largely on the assistance rendered by expert and contented Services. It would be dangerous, if it is still desired to recruit British officers, to ignore the fact that there is an increasing sense of uneasiness among the British members of the Services. This is perhaps due less to the nature of the recommendations of the Commission, which at least on paper maintain the existing protection, than to a growing apprehension about the intentions of the British Government and the Government of India. This uneasiness will react rapidly on recruitment, and if the recruitment of British officers is to continue, effective guarantees of the rights and conditions of service must be devised. The Government of Bengal consider it essential, therefore, that the utmost care should be taken in introducing any further reforms to protect the present members of the Services in the enjoyment of the rights to which they are at present entitled and to do nothing which will in any way check regular recruitment for these Services.

43. As regards the Security Services the Government of Bengal are agreed that all-India recruitment should continue and that the recruitment should be through the Secretary of State who should guarantee the conditions of service. These conditions should not be open to alteration without the assent of the Secretary of State in Council. As the Secretary of State is the authority responsible for recruitment he should have the power to require provinces to employ members of the all-India Services in such number and in such appointments as he may think fit. The present members of these Services should retain their existing rights and privileges and the conditions of service for new entrants should be the same as for the present members except for the right to retire on proportionate pension. But Government realise that the terms of recruitment may require to be altered as time

goes on if recruitment on these terms does not provide a sufficient supply of officers of the right type. The terms of service will be largely conditioned by the interaction of supply and demand.

44. On the question of increasing the rate of Indianisation in these Services they are agreed that the present rate should be continued and that acceleration of Indianisation is not desirable, especially as it is understood that the rate of Indianisation has been much more rapid than was anticipated. Indeed the Mahomedan members would like it retarded on the ground that the present rate is working unfairly to Mahomedans. They urge that if however the present rate is maintained, then Indianisation should be carried out gradually, and not to the detriment of any particular community, but with due regard to the securing of the widest possible confidence in the administration.

45. On the question of the recruitment for the non-security services there is no agreement. One member is of the opinion that recruitment for non-security services must be made by the Provincial Government, another member thinks that for political reasons it is not possible to press for all-India recruitment for any of these services, and a third points out that so far experience in Bengal has not shown that there is any likelihood of the recruitment on a provincial basis of officers from abroad having any chance of success. The Moslem members would stress the point that there should be proportionate and adequate representation of the different communities in the public services.

46. The Government of Bengal would draw special attention to the recommendation in paragraph 332 of the Simon Commission Report supporting the recommendation of the Lee Commission regarding the adequate provision for safeguarding service pensions, and urge the importance of carrying this recommendation into effect should the need for it ever arise. For they feel that there is increasing anxiety among some members of the services regarding the security of their pensions and an apprehension that the time may come when they will find that their interests have been sacrificed for political ends. The Government of Bengal do not consider that there is any substantial basis for this apprehension, but at the same time they cannot deny that it exists and they consider that it would conduce greatly to the feeling of security among European members of the Services and to the chance of getting a steady stream of recruitment, were a solemn undertaking given that their rights to pension shall be adequately safeguarded, or if arrangements were made to hold the funds required for the payment of their pensions and provident funds in Great Britain.

47. They would also draw attention to the recommendation of the Commission regarding the need for making adequate arrangements for the medical treatment of European officers. This affects not only officers at present serving, but is important as affecting

recruitment in the future. For it will be impossible to obtain European officers for this country if they cannot be assured of treatment for themselves and their families by European doctors of an adequate standing.

48. They support the recommendation of the Commission that an additional pension should be given to Governors of Provinces who belong to the Services. They also support the recommendation that an officer who has been appointed a Minister and has been turned out of office should be entitled to some increment to his pension if he is not reappointed or posted to some other post on active service. They also with one dissentient support the recommendations regarding the need for a Provincial Public Service Commission and the majority agree that the members thereof should be appointed by the Governor. They are also in agreement with the remarks regarding the recruitment of Anglo-Indians. Failure to obtain recruits from this community through the ordinary channels of recruitment is leading to difficulties in Bengal.

49. As regards the recommendations of the Commission in connection with the High Courts, it is agreed that there is no objection to the High Court of Bengal remaining under the Government of India, provided all other High Courts are placed in the same position and the Central Government meets the charges for it, after making the necessary adjustments suggested by the Commission. "The present anomalous position in which the Government of India control the High Court while the Government of Bengal pay for it should cease. If other High Courts remain under the local Governments concerned, then the High Court of Calcutta should be placed under the Government of Bengal.

50. Whatever be the final decision about the control of the High Court it is desirable that the present arrangement under which the selection of the persons to be appointed to the Provincial Judicial Service rests by law in the hands of the High Court should be changed. All appointments to Provincial Services should be made by the local Government, though in the case of the Judicial Service, the advice of the High Court should be taken before the final selection is made. The present system of making appointments to the High Court on the recommendation of the Chief Justice should also be modified, and appointments should be made on the recommendation of the Governor after consulting the Chief Justice.

51. The Government of Bengal have no detailed criticisms to make regarding the recommendations of the Commission on the subject of the relations between the Home and the Indian Governments. They agree that the Secretary of State's Council should continue to exist and that it should perform the functions mentioned by the Simon Commission. They approve of the conditions of appointment proposed by the Commission, viz., that the interval

between leaving India and the appointment to the Council shall not exceed one year and that no member appointed on account of his Indian experience should be eligible for re-appointment. They further recommend that more use should be made by the Secretary of State of his Council for the purpose of advice on all matters affecting India. They consider that it is unsound that important decisions regarding the governance of India should be taken by the Secretary of State without any previous discussion with his Council. On the constitutional question whether there should be delegation of powers by the Secretary of State by convention as in the case of the fiscal convention, the Government of Bengal are in agreement with the recommendation of the Simon Commission.

52. In conclusion, I am to say that the general position of the Government of Bengal is that the Simon Commission Report sets forth a logical scheme of advance for India towards the goal laid down in the preamble to the Government of India Act, which they are prepared to accept as a whole, subject to the recommendations they have made on matters of detail, and to the general objections raised by one member in the note which will be found in Appendix A. But they desire to make it plain that in their opinion no advance can safely be made beyond the recommendations of the Commission. More especially they desire to emphasize their opinion that no further advance should be made in the centre until it is certain that the Provincial Governments are exercising their increased powers and responsibilities with due regard to the interests of all classes and communities and until experience in the provinces has shown that risks can be taken at the centre with a reasonable chance of safety.

53. With reference to your request for an estimate of the reception which the recommendations of the Commission have received in the province I am to say that the reception accorded to the first volume of the Report of the Indian Statutory Commission by European papers and by the *Bengalee* was favourable but that the nationalist Hindu papers condemned it, the *Basumati* describing it as " crude and barefaced " propagandist literature. Apart from some favourable comments in the European papers and the *Bengalee* the second volume of the Commission's Report was received with a chorus of disapproval. This was only to be expected on the part of the nationalist press, but there is also a strong Muhammadan feeling in Bengal that the proposals for Muhammadan representation in this province are unfair, that the Muhammadan majority in Bengal is being sacrificed to Muhammadan minorities in other provinces, and that Muhammadan interests in the proposed Federal Assembly will be seriously affected. The Moslem press generally, which was at first more favourable than the Hindu press, has lately changed its view for the worse and now condemns the Report in very much the same language as that used in the Hindu press. At the same time there can be no doubt that the

Report has aroused much interest, and has probably received more serious attention than the superficial comments upon it in the press would appear to indicate. Not only has there been a large demand for the Report itself, but criticisms in the press have been frequent and not least in those papers which pretend that the report is worthless, and there are indications that the previous wholesale condemnation of the Report is giving place to detailed criticism of and opposition to some of the proposals contained in it.

54. I am to add that Sir Walter Layton's financial proposals will be dealt with in a separate letter.*

APPENDIX A.

One member of Government is of opinion that if the recommendations of the majority of the Government are accepted it will inevitably lead to a rapid disintegration of the structure of society in India—including British and Indian. On the scheme accepted by the majority racial bitterness will increase intensely. The elections on the scheme proposed will be fought on the racial issue, sentiment and the activities of the youth of the country will play an important part. On that scheme, in his opinion, the party of extremism will sweep the polls and inoculate the voters and others with the virus of hatred towards England. Those Indians who believe in working out India's political evolution by co-operating with England will be hounded out of public life. Under such conditions it will be impossible to attain the ideal of responsible Government in India as an integral part of the British Empire, for it is difficult to conceive of a self-governing India to form an integral part of the Empire with bitterness and hatred towards its head and distrust and suspicion which that head as a consequence will naturally harbour towards such an important component part of the Empire as India. Bitterness and hostility to England will have other very serious consequences. The volume of trade between India and England is very considerable. Experience shows that bitterness and hostility intensify the boycott movement. Intensity of the boycott movement not only affects purchasing of British goods but it has the effect of decreasing trade all round, for one indirect effect of the boycott movement is to make less money available for circulation. The tense atmosphere which prevails at times of acute agitation also unsettles the minds of traders and commercial men and they naturally hold back from business ventures. The present structure of society in India is based on co-operation and good-will between England and India. The activities to which reference has been made will, in his opinion, inevitably lead to strangulation of the economic life of the people. Such strangulation will increase distress in all classes and will very prejudicially affect receipts of all governments, provincial and central. As already mentioned, if the recommendations of the majority be accepted, then those who are intensely anti-British and are for severing British connection will be returned to provincial legislatures in even larger numbers. If their leaders accept office then we shall have in the provincial Governments a state of things similar, but on a much extended and intensified scale, to what we have at the present moment in the Corporation of Calcutta. If these leaders do not accept office then they will be in a position to make it impossible for the constitution to function. Apart from other reasons

* See page 348.

the different groups of disorganised and disheartened co-operators whose number will be small and who will not be knit by a common party bond will not even be an effective minority and a number of them will go against the ministers. From past experience the conclusion about wrecking the constitution by playing upon personal jealousies is fully justified. One important safeguard for maintaining the structure of society in India and for preventing the untoward consequences referred to above will be, to formulate a constitution, particularly in the provinces, under which those who are willing to work for the ideal of responsible government as an integral part of the British Empire may be returned in such numbers that at times they will be in a majority and at other times will be an effective minority. In the constitution to be framed those who are for severing British connection should have a similar position, that is to say, they might at times be in a majority and at other times in an effective minority. The object the member has in view will be defeated if the framing of the constitution be such that those who are willing to work for the attainment of responsible government as an integral part of the British Empire will always be in a perpetual majority for such a position will inevitably tend to a sense of hopelessness and all that follows from hopelessless in the party of their opponent. That object will be more dangerously defeated if those who are in favour of cutting adrift from England and for increasing the bitterness and hostility against England be in a perpetual majority as under the recommendations they are likely to be. For such a state of things will also mean utter hopelessness in their opponent. The constitution should be such that both parties will have a chance of being in power or being in effective opposition. If the idea of the member be accepted then he thinks it will be reasonably possible to prepare the country to accept the view that India's best interest lies in working for political evolution by co-operation with England. In order to achieve this object it will be a mistake to depend only on one group such as Muhammadans, or landlords or Liberals. He is of opinion that experience shows that personal jealousies have played an important part in the past and is likely to operate in future at any rate for the next 10 or 15 years (the one-sided anti-British propaganda has been going on for over 12 years in a very acute form and in a less acute form for over 25 years). The constitution therefore should be framed in such a way that a combination of a fair section of the Muhammadans, the landlords and the Liberals will give the party of co-operators at times a majority and at other times an effective minority. It will be necessary to leave more than a fair margin for defection because of personal jealousies. Such a constitution will inevitably strengthen the hands of the Governor and inspire confidence in the minds of the members of the security services than mere rules can ever do. The necessary safeguard will not be forthcoming by merely confining it to reserved powers of Governors and the maintenance of the security services. If we were to depend merely on these two safeguards and if the bitter agitation continues, as it will, then the present structure of the British Indian administration will have to be changed and it will be necessary to spend much larger sums on police and army than is done at the present moment. With decreasing income due to agitation and with increasing expenditure the safeguards suggested will prove useless and illusory. The member is of opinion that it would have sufficed if the principles suggested by him were accepted leaving it to the franchise committee to work out details. It was, however, pointed out to him that it would be desirable to give more definiteness to his ideas. He therefore puts forward certain suggestions with regard to the distribution of seats and the rules of franchise more by way of illustration than by way of definite recommendation. He is of opinion that the principles embodied in his note should be accepted and the illustrative suggestions put forward should be treated as nothing more than illustrative suggestions and that it should be left to the proposed franchise committee

to work out the details after acceptance of the principles. The suggestions are:—

(1) The period for constitutional revision by means of amendment by constitutional resolution should be extended to 15 years (instead of 10 years). This will ensure experience of three councils instead of two.

(2) During these 15 years the existing rules of franchise should stand. If, however, those who are weighed more by theories than by realities insist upon broadening of the franchise such broadening should not be by more than double and not treble as suggested in paragraph 106 of the Simon Commission's Report.

(3) Over and above the statutory nominations for Indian Christians, labour, etc., the Governor should have power to nominate up to 8 to 10 per cent. of the total number of seats. This will enable the Governor to introduce a stabilising influence whenever it is necessary to do so.

(4) Of the total number of Muhammadan seats that may be decided, say 25 to 30 per cent. should be returned by a separate class of voters with higher property qualification, e.g., those paying Rs. 10 as cess or Rs. 50 as land revenue or rent. The rest should be by the electors with the ordinary franchise qualification that may be decided. Unless this suggestion be accepted he is apprehensive that the class of Muhammadans who will be returned to the Legislative Council will have a less stabilising influence than those who now come by the door of election. If, however, the Muhammadan representatives do not like this suggestion the member feels that he should not press for it, but in that case he will have to ask for more non-Muhammadan seats for purposes of stabilising, leaving the percentage of communal representation intact. He would, however, point out that although personal differences and jealousies played an important part amongst all sections of co-operators, the part played by the Muhammadan section was very much worse. The number of co-operating Muhammadans who supported ministers was never more than one-third of the total number of co-operators of that community. In the case of the co-operating group of Hindus the supporters of the minister was not less than two-thirds.

(5) Of the total number of seats that may be allotted to the non-Muhammadans from general constituencies (excluding backward classes) say 25 to 30 per cent. should be reserved for constituencies with a higher franchise. As the non-Muhammadans generally speaking are better off than the Muhammadans he would make the property qualification higher, e.g., payment of say Rs. 15 as cess or payment of Rs. 75 as land revenue or rent.

(6) 7½ per cent. of the seats should be reserved for the special constituency of landholders. The present voting qualification should be reduced.

(7) Of the backward classes he would not give any special representation to the Mahisyas and the Ugrakshatriyas. His reason for this suggestion is that they can well look after themselves and that it is politically inexpedient to grant special representation to these two classes. Some special facilities are necessary for the Namasudras and Rajbansis. He agrees that the total number of backward classes seats should be reduced to 10. He also agrees that it may be difficult to get many more suitable candidates from the backward classes.

(8) The representation of Indian commerce and industry should be continued. In Bengal, however, the Bengali element in Indian commerce and industry is getting smaller and smaller. In the present Bengal Legislative Council with a total non-official number of 114, we have four seats reserved for Indian mercantile and trading interest, viz., two for the Bengal National Chamber of Commerce, one for the Bengal Marwari Association and one for the Bengal Mahajan Sabha. He would retain these seats.

If these seats are retained then on the percentage as recommended by the Simon Commission the total number of seats will be about nine or 10. The remaining five or six seats he would allot to income-tax payers who are Indians by nationality and who pay an income-tax on an assessed income of say not less than twelve thousand rupees per annum. For political and other reasons he is opposed to increasing the numerical representation of Marwari trading interest. Increasing of seats to the Marwari trading interest will add to strengthening of the forces which tend to disruption of society. Further, he does not see why extra consideration should be shown to those who are not natives of the province. On the other hand allocation of five or six seats to income-tax payers will introduce a stabilising influence. His reasons against extension of seats in favour of bodies representing trade and commerce both amongst Bengalis and Marwaris and suggesting an income-tax election are mainly political. Those who are in trade and commerce (both Bengalis and Marwaris) are becoming increasingly extremist and are for their own peculiar reasons becoming supporters of boycott. Income-tax payers will include a large number of house-holders who pay income-tax on their personal income and property. This class is more stable.

The member has no objection to automatically dropping the provisions embodied in paragraphs 3, 4 and 5 of his suggestions after a period of 15 years, leaving it open to the framers of the constitutional resolution either to re-introduce these provisions or to modify them in any way without the necessity of support by two-thirds of the voters of the legislature, but his object is that during the initial period of the working of the new constitution it is important to introduce more stabilising influences. He is, however, of opinion that it will be safer to retain the two-thirds rule even with regard to these provisions. From calculations that he has made he is of opinion that the distribution of seats and the rules of franchise on the lines framed by him will in all probability ensure what he has in view, namely, that those who are willing to work for the ideal of responsible government as an integral part of the British Empire may be returned in such numbers that, after allowing for defection on personal questions, at times they will be in a majority and at other times be an effective minority.

With regard to the provincial executive he desires to suggest the following. As soon as the cabinet has been formed a Muhammadan member and a Hindu member should be placed jointly in charge of the departments of Police and Appointments. The procedure will be that where both members agree, subject to the reserved power of the Governor and of the over-ruling power of the Cabinet as a whole, the order will be final, but where the two members differ the matter will be placed before the Governor whose opinion will be final and there will be no overriding power of the Cabinet. If, however, the Cabinet decides upon placing either of these portfolios in charge of a British elected member, then the special provision suggested above need not apply.

(2) The ministers instead of being jointly responsible to the Lower House only should be ultimately responsible to a joint session of both the Houses as suggested by the memorandum of the Government of Bengal. This will ensure a better possibility of keeping in office ministers who may desire to work the constitution with the ideal of responsible government as an integral part of the British Empire.

(3) It has been pointed out that the difficulty of the exercise of the Governor's reserved power will not be so much with regard to their exercise when real emergency occurs, but the greater difficulty will be in day-to-day administration. Responsibility to the joint session of both the Houses will, therefore, meet some of the objections referred to in paragraph 6 of the letter to which this is appended.

(4) There is a serious danger of a majority in the Legislative Council refusing to work the constitution. If two ministries are successively defeated and no ministers are available with a majority for working the constitution the Governor should have not only the power of dissolving one or both the Houses, but he should have the power of suspending the Lower House for a limited period of say one year and carry on with ministers appointed from the Upper House for that period. The exercise of such a power, however, will be subject to the supervision of the Governor-General and within one year a fresh election will have to be held.

With regard to the Central Government the member is of opinion that if the scheme of the Simon Commission be adopted, both in the provinces and in the centre, then the position of the executive in the centre will be worse than intolerable. In the provinces the legislatures are likely to be dominated by anti-British members and the ministers in the provinces will either have to submit to their domination or the constitution will break down. In either case a situation will arise in the province which will inevitably lead to physical conflicts between the people and the authorities and the repercussions on the discharge of the responsibilities of the central executive will be very serious. The structure of society as also of trade and commerce will be very seriously affected. The member is further of opinion that the suggestions contained in paragraph 27 of the letter consist more or less of general observations and the position of the executive Government in the centre, even if the suggestions of the majority be accepted, will also be impossible. The member, however, finds it difficult to make any constructive contribution on this point, so long as the scheme for distribution of seats and the rules of franchise in the provinces are not finally determined. There is, however, one constructive suggestion which he desires to put forward and which should come into operation in any view of the case. That constructive suggestion is that the administration of the Army should be separated from the administration of other departments and should be placed under the charge of a separate Executive Council This Executive Council for administering the Army will have the Governor-General as its head, the Commander-in-Chief as Vice-President of the Council, one or two civilian members appointed by the Secretary of State for India to represent imperial defence interests and one or two members to be selected on the recommendation of the Government of India. The separation of the army administration from administration of the civil departments will take away a good deal of suspicion from Indian nationalists who desire to provide immediate responsibility in the Central Government.

Anti-British propaganda has been going on in India from the days of the Mahratta revival and of the partition agitation in Bengal. From the days of the agitation over the Rowlatt Bill and the Jalianwalla Bag incident, such propaganda has been very vigorous and virulent. There has been very little of counter-propaganda. Elections on a franchise very much wider than those in vogue under Morley-Minto scheme had one inevitable result, viz., appeal to the racial issue with the help of the youth of the country. This helped a good many candidates to win their election This also led to widespread anti-British feeling. The Indian-owned newspapers, whether edited in English or in vernacular, by Hindus or Muhammadans, added considerably to this anti-British feeling. Appeal to Indians on the sentiment of India for Indians must prove effective. Sentiment always plays an important part in politics and a sentiment like this it will be difficult to ignore. The counter-appeal to reason about co-operation with the British divorced from sentiment and lacking in the support of the youth of the country was always ineffective. During the last 10 years racial bitterness has increased with an intensity unknown previously. If the franchise be further broadened this member is definitely of opinion that racial bitterness will increase even more largely in volume and strength. One favourite game of those who believe in creating this racial cleavage is boycott of British goods. In an

earlier part of this note the member has pointed out some of the dangers resulting from this movement. He desires to draw particular attention to this danger. He also considers it necessary to point out that the constitution of a country like India racially different from England must be framed after taking due note of the racial difference and a blind copy of what is satisfactory in self-governing dominions like Australia, Canada or South Africa or what is satisfactory in England will lead to untoward results. In these countries there is no racial or communal issue in elections. Further, the colonies are sparsely populated and want development. The position with regard to election there is very different from that in India.

Under the Morley-Minto constitution there were altogether about 8,000 voters in Bengal. Out of these 6,000 were direct voters and 2,000 represented electoral colleges. Under the present Government of India Act there are over 11 lakhs of voters. In elections which took place under the Morley-Minto constitution persons who based their politics on reason as against mere sentiment could successfully contest the seats. So far as the Hindus are concerned, under the existing constitution in the general constituencies less than 10 per cent. were successful in the last elections. The position was better with regard to the seats reserved for the landholders and trade and commerce. The reason for this want of success in general constituencies was appeal to sentiment and the efforts of the youthful supporters of extremism. If the franchise be extended in the manner proposed and if the landholders' constituency be abolished, then so far as the Hindus are concerned, co-operators will have absolutely no chance. Those who think that with the help of the Muhammadans and of the Europeans the constitution can be successfully run, labour, in his opinion, under a great mistake. In the first place, assuming that the constitution can be run in the manner indicated, there will be a sense of helplessness and hopelessness in the Hindu community. This must have its repercussions in many directions. It will inevitably lead to physical conflicts. It will mean ruin of trade and commerce. It will also mean increasing poverty to the Muhammadans who are already poor. I do not think, however, that the assumption is right that the Muhammadans who would be returned to the Legislative Council on an extended franchise will not be anti-British. It is true that the Muhammadan advisers of Government have supported extension of franchise amongst Muhammadans. If analysed, their reason for such support is that they are anxious to secure thereby a larger number of seats for Muhammadans. There are already the beginnings of a movement, not very serious at the present moment, amongst the younger section of the Muhammadans which are anti-British and decidedly antagonistic to the opinion of the older and soberer section of Muhammadans. With extension of franchise young pleaders, journalists and men with very little stake amongst the Muhammadan community will have a much better chance of being returned, particularly as they are likely to be supplied with funds by the Congress workers and others. It will then be a question as to which section can harness the Maulavis and Mollahs and the young men on their side. This member is almost certain that older and the soberer Muhammadans will have a very difficult time, and to some extent the experience through which the soberer and older sections of the Hindus went a few years ago will be repeated in the case of the Muhammadans. Assuming, however, that the older and the soberer Muhammadans will be able to be returned in fairly large numbers the inevitable personal issues will be there and for practical purposes their return will be of little use for smooth running of the constitution. Furthermore, statesmanship demands that the supporters of ministers should be recruited from the two communities and not from one community only. Apart from propaganda for elections where the older and the soberer Muhammadans have been fairly successful against pro-Congress Muhammadans, the attitude of the Muhammadan community in Bengal on the question of boycott of British goods as apart from the civil disobedience

movement has been on the whole almost as unsatisfactory as that of the Hindus. The cigarotte trade has been largely in the hands of the Muhammadans. We know the position with regard to the cigarette trade. Cigarette has been boycotted both by Hindus and Muhammadans. A quiet enquiry into the bazaar will satisfy anyone that the Muhammadan traders have as much sympathy with the boycott as the Hindu traders, although both the Hindu and the Muhammadan traders suffer from boycott. It is true that in the civil disobedience movement, at any rate in Bengal, a section of the Muhammadans have passed resolutions against the movement, but beyond passing of resolutions they, in most cases, have done very little effective, but wherever anything effective was attempted it has inevitably led to physical conflicts between Hindus and Muhammadans and to the undesirable economic issue, thereby adding to the difficulties of the administrative officers, already harassed by the civil disobedience movement.

If we look to the political history of England where responsible Government has perhaps succeeded better than even in most western countries we find that there has been a gradual evolution in extension of franchise and power to the less favoured sections of the community. Before the Reforms Act of 1832 power was practically centered in the aristocracy and squirearchy. After 1832 the upper middle class men were taken in and power was centered in a combination of the older element and of the upper middle classes. After Lord Disraeli's Act there was a further extension. Skipping over the intermediate constitution at legislation we find that even after the Act of 1918, £10 annual value is the qualifying franchise for males, whereas in India in the case of a tenure-holder Rs. 16 annual rent is the qualifying franchise. If England with all its experience of responsible government, with all its advantages in education particularly after the compulsory Education Act passed 50 years ago, still retains £10 annual value as the qualifying franchise for the male voters, it will be a great mistake to lower the franchise even more than what it is under the present Government of India Act. The member, however, is fully alive to the demand for lowering of the franchise. The demand is based on a pathetic faith of blindly copying of western institutions. If the authorities were to accept the demand put forward by the nationalists, then why accept it in one respect and reject it in others? For example, responsibility in the centre is the demand of the Hindus and the Muhammadans alike. If all the demands are not accepted it is because of reasons of safety, and if reasons of safety operate, as it should, then let it operate with due regard to all realities.

There is one important question which must have great weight with the security services and contentment of the security services is so important in maintaining the stability in the structure of society. The representatives of the services are very keen on retaining an official minister. After giving the matter very anxious consideration the member is of opinion that such retention will merely add fuel to the fire and will not be of any use. There may be one way of gaining the object which the representatives of the security services have in view. If it be provided that European trade and commerce should be allowed to elect members who do not belong either to the Chamber of Commerce or the Trades Association but who are British by nationality, then it will be quite possible for these interests to elect one or more officials who have just retired on pension and as European trade and commerce will represent an important section of the House the inclusion of a retired official to the electorate may serve the purpose which the representatives of the security services have in view. The member commends this suggestion to the careful consideration of these representatives. This suggestion if accepted will not have the same political objection as the inclusion of an official minister as such. Failing this the member suggests that the salary and the emolument of the Chief Secretary should be improved and he should be the official adviser of the Governor.

There are a number of other points into which the member refrains from entering as he is of opinion that unless a decision on some of the points on which he has laid great stress in this note be arrived at, it will not serve any useful purpose to deal with those points.

In this note he refrains from stating his views about the communal question and the all-important question of provincial finance. He proposes to deal with these two topics separately.

APPENDIX B.

NOTE BY THE MUHAMMADAN MEMBERS OF GOVERNMENT, DATED 15TH JULY, 1930, ON MOSLEM REPRESENTATION IN THE BENGAL LEGISLATIVE COUNCIL IN PROPORTION TO RATIO OF POPULATION.

On page 71 of Volume II of the Report, the Commission have referred to the Lucknow Pact. They say, " Our own opinion is that in view of the existing position and of the weakness of the Moslem minority in six out of the eight provinces the present scale of weightage in favour of Muhammadans in those provinces might properly be retained. . . . But a claim has been put forward for a guarantee of Muhammadan representation which goes further than this. This claim goes to the length of seeking to preserve the full security for representation now provided for Moslems in these six provinces and at the same time to enlarge in Bengal and in the Punjab the present proportion of seats secured to the community by separate electorates to figures proportionate to their ratio of population. . . . We cannot go so far. The continuance of the present scale of weightage in the six provinces would not, in the absence of a new general agreement between the communities, equitably be combined with so great a departure from the existing allocation in Bengal and the Punjab."

We are afraid this reasoning will not bear scrutiny for a moment for—

(*a*) In the first place their argument militates against their fundamental ideal of a Federal Government. The conception of Federal States presupposes the inter-independence of the constituent states and therefore the plea of weightage elsewhere does not apply to Bengal and the Punjab. In all federal systems of Government where there is a question of majorities and minorities, certain amount of weightage is always given to the minorities where they exist. But this weightage is never allowed to operate in reducing any actual majority anywhere into a minority.

The Commission further observes that " it would be unfair that Muhammadans should retain the very considerable weightage they now enjoy in the six provinces and that there should at the same time be imposed a definite Moslem majority in the Punjab and Bengal."

The Commission seems to forget that the weightage which Moslems enjoy in those six provinces is due to the very essence of democracy. " It is an essential part of democracy," says John Stuart Mill, " that minorities should be adequately represented; nothing but a false show of democracy is possible without it." Thus the weightage in the other provinces can never be taken to counterbalance any actualities elsewhere. There is no question of " imposing " a definite majority in the Punjab and Bengal. The definite majority is there already. On the other hand, it is the Commission who are attempting to reduce an actual majority into a perpetual minority, which is against all principles of democratic form of government.

Even the late Mr. C. R. Das in the now famous Bengal Pact agreed to give major community 60 per cent. representation and minor community 40 per cent. representation on all self-governing bodies in each district of Bengal, irrespective of Hindu or Moslem and their actual census strength.

(*b*) The Commission talk of a " new general agreement between the communities," and it seems that if such an agreement were concluded and it gave representation according to population to the Moslems in Bengal and the Punjab, the Commission would then be glad to ratify the same, forgetting perhaps that such an agreement between the two communities is never likely to materialise. Their two trips to India ought to have convinced them that the Hindu community would never concede such representation to Bengal and the Punjab Moslems *suo motu*.

Representation of Bengal and Punjab Moslems in proportion to their population seemed to the Commission to be a " great departure from the existing allocation," whereas in reality it is nothing of the kind. It is a claim based on equity, as we shall presently show.

(*c*) Let us trace the history of Moslem representation as will be found from Government of India's Memorandum on " Communal representation in legislatures and local bodies (E.-Ind.-209)." This Memorandum from which we are quoting below was prepared by the Government of India for the Simon Commission.

The question of Moslem representation was first mooted during the viceroyalty of Lord Minto. A deputation of leading Moslems headed by His Highness the Aga Khan waited upon His Excellency Lord Minto on the 1st of October, 1906, and presented an address. In his reply His Excellency Lord Minto declared as follows:—

(*Ref. E.-Ind.*-209, *page* 11.) " The pith of your address, as I understand it, is a claim that under any system of representation, whether it affects a municipality or a district board or a legislative council, in which it is proposed to introduce or increase an electoral organisation, the Moslem community should be represented as a community. You point out that in many cases electoral bodies as now constituted cannot be expected to return a Moslem candidate, and that if by chance they did so, it could only be at the sacrifice of such a candidate's views to those of a majority opposed to his community whom he would in no way represent; and you *justly* claim that your position should be estimated *not only on your numerical strength but in respect to the political importance of your community and the service it has rendered to the Empire. I am entirely in accord with you.* Please do not misunderstand me. I make no attempt to indicate by what means the representation of communities can be obtained, but I am as firmly convinced as I believe you to be that any electoral representation in India would be doomed to mischievous failure which aimed at granting a personal enfranchisement *regardless of the beliefs and traditions of the communities composing the population of this continent.*"

(*Ref. E.-Ind.*-209, *page* 12.) " These proposals were supported by the Government of India and communicated to the Secretary of State, who accepted the principle that the Moslem community was entitled to a special representation on the Governor-General's and *local legislative councils commensurate with its numbers and political and historical importance.*"

This shows that the Government of India declared that the Moslem community were entitled to special representation on the local legislative councils, but that representation was to be commensurate with *not only its number* but also *its political and historical importance.* Simon Commission now declines to give them representation commensurate even with their numbers, not to speak of their political and historical importance.

The Government of India Memorandum further goes on to say that " These proposals were supported by the Government of India and communicated to the Secretary of State, who accepted the principle that the Moslem community was entitled to a special representation on the Governor-General's and local legislative councils, *commensurate with its numbers and political and historical importance.*"

The Lucknow Pact agreed to the following proportion of Moslem representation in the legislative councils:—

Punjab—50 per cent. of the elected Indian members.
United Provinces—30 per cent. ditto.
Bengal—40 per cent. ditto.
Bihar and Orissa—25 per cent. ditto.
Central Provinces—15 per cent. ditto.
Madras—15 per cent. ditto.
Bombay—33⅓ per cent. ditto.

The percentage of Moslem seats to the Moslem population, taking figures from the census of 1911, worked out as follows:—

Province.	Moslem percentage of population.	Percentage of Moslem seats proposed.	Percentage (2) of (1).
	1.	2.	3.
Bengal	52.6	40	76
Bihar and Orissa	10.5	25	238
Bombay	20.4	33.3	163
Central Provinces	4.3	15	349
Madras	6.5	15	231
Punjab	54.8	50	91
United Provinces	14.0	50	214

The result is "that while Bengal Moslems have obtained only three-quarters and the Punjab nine-tenths of what they would receive upon population basis, the Moslems of other provinces received extremely liberal representation. These concessions indicate the extent to which Congress leaders were prepared to go in order to secure the adherence of Moslems to their reforms proposals."

(*Ref. E.-Ind.*-209, *page* 28.) "The Government of India drew attention to the effect of the Congress League agreement (Lucknow Pact) in giving the Bengal and Punjab Moslems less than what they would receive upon a population basis, while the Moslems of other provinces received, some of them, extravagantly good terms. The Government of India were of opinion that the proportions laid down in the Lucknow Pact could not be taken to represent the right relation either between Moslems in different provinces or between Moslems and the rest of the communities. . . . The Government of India accepted the conclusions of the Committee in favour of the proportions agreed upon in the Lucknow Pact with *one exception*. The Government of India felt that the Moslem representation *proposed for Bengal was manifestly insufficient; they doubted whether the claims of the Moslem population of Eastern Bengal had been adequately* pressed when the Congress and League compact was in the making."

We have thus shown above what the views of the Government of India were at the time when the Franchise Committee perpetrated a great injustice on the Bengal and Punjab Moslems.

Now is this injustice going to be perpetuated? The entire Moslem community from the Himalayas to Cape Comorin feel very strongly on this point as will be evident from the resolution of the All-India Moslem Conference held at Delhi on the 1st January, 1929, where it states (*vide* page 85 of Report): "It is essential that representation of Mussalmans in the various legislatures and other statutory self-governing bodies should be based on a plan whereby the Moslem majority in those provinces where Mussalmans constitute a majority of population shall in no way be affected

and in the provinces in which Mussalmans constitute a minority, they shall have a representation in no case less than that enjoyed by them under the existing law."

The resolution passed by the Working Committee of the All-Parties Moslem Conference held at Simla on the 5th July last also emphasized the Moslem demand for representation in Bengal and the Punjab Council on the basis of population. All Moslem leaders who have criticised the Simon Report have equally stressed this point.

Now with regard to the manner and form of the Moslem electorates of 1909 three points that deserve to be borne in mind are—

(1) that the Moslem electorates were superimposed upon the general electorates;

(2) that not only the basis of population, but also the political importance of the Moslem community, as distinct from its numerical strength, was accepted by Lord Morley as a basis for special representation; and

(3) that the franchise in the Moslem constituencies, which elected direct to the councils, was wholly different from the franchise qualifications in the general constituencies in which the district boards and municipalities intervened between the primary voters and their representatives in the council.

Later on, at the time of the Montford Reforms, when the Franchise Committee based their recommendations on the Lucknow Pact, the Government of India strongly protested as has been described. In spite, however, of the Government of India's protest, effect was given to the Lucknow Pact during the last Montford Reforms, the result of which in Bengal was even more disastrous. The present council is composed as follows:—

(*a*) 39 are returned from Moslem constituencies.
(*b*) 46 are returned from Hindu constituencies.
(*c*) 5 are returned from the Landholders' constituencies.
(*d*) 2 are returned from two Universities' constituencies.
(*e*) 4 are returned from Bengal National Chamber of Commerce, the Marwari Association and the Bengal Mahajan Sabha.
(*f*) 16 non-official Europeans.
(*g*) 2 Anglo-Indians.
(*h*) 26 nominated officials.

140

This means that whereas there are 39 Moslems, there are 46 + 5 + 2 + 4, i.e., 57 Hindus, as Moslems can never hope to get returned from the Landholders' constituencies, nor from the Bengal National Chamber of Commerce, the Marwari Association and the Mahajan Sabha, nor more than one from the two Universities. Thus, in a Council of 140, as at present constituted, there must always be 39, or at the most 40, Moslems, against 56 to 57 Hindus.

Some objection seems to have been raised against the Commission's recommendation of giving the depressed classes something like 18 per cent. representation; and this is sought to be lowered. There seems to be little justification in this objection, as will be gleaned from the fact that, taking the census of 1921, the caste Hindus, i.e., (*a*) Brahmin, (*b*) Kayastha, (*c*) Baidya, (*d*) Rajput, (*e*) Buddhist and Jain, taken together, come to 3,105,000 roughly, whereas the depressed classes and untouchables come to 17,400,000. Even if the 18 per cent. as recommended by the Simon Commission is lowered, and a smaller proportion of seats assigned to the depressed classes, that is no argument against Moslem representation as the Moslem population is 25,200,000. Besides, although the lower strata of the Hindu society is labelled as depressed and untouchable, they still come in under the nomenclature of Hindus and within the pale of Hinduism and have common interests with them.

Both the Congress and the Moslem League have always affirmed the principle, which has been enunciated by both these bodies, that "under no circumstances should a majority be reduced to a minority, and there should not be a violation of this principle."

"The annulment of the Partition of Bengal and the unsettling of that settled fact on the 12th December, 1911, had shaken the faith of the Moslems in the pledges and promises of British statesmen. The dubious attitude and policy of England during the Turko-Italian and Balkan Wars had also distracted and disturbed the Moslem mind. This drove the younger men of the Moslem League into the arms of the Congress, and resolutions passed by the League in 1913 bear unmistakable traces of Congress influence. Then came the Great War, in which Turkey was ranged on the side of the enemies of the Empire, and this sorely tried and strained the loyalty of the Moslems. Advantage was taken of this by Mr. Gandhi, who subsequently developed it into what he styled as the 'Khilafat wrong,' and some Moslems were led to accept the Pact: but in reality the Lucknow Pact gave the Moslems nothing substantial. By a clever gesture of peace and good-will, the Congress politicians succeeded in securing the acquiescence of a handful of young and inexperienced politicians of the Moslem League to the relegation of Moslems to the position of a minority in every province in India, including the provinces of Bengal and Punjab, where they constituted a majority. Disillusionment followed soon, and the Moslems of Bengal and Punjab bitterly rue the Pact to this day."

When finally the Government of India had to act in accordance with the findings of the Franchise Committee, Sir William Vincent appended a Note to the Fifth Despatch of the Government of India, dated the 3rd April, 1919. This is what he wrote:—

"What is wanted is a sliding scale in which the weighting given to Muhammadans increases as their numerical weakness does. We have, as the despatch says, to measure the advantage to be given to them. To do so some arbitrary assumptions must obviously be made. The fewer and simpler these are the better. Where the Muhammadans are in a census majority, let them get representation in that proportion. Where they are at their weakest let us double that proportion. Between these extremes let us multiply the census ratio of Muhammadans by a factor greater than 1 and less than 2,"

and he proceeded to state his final proposals as follows:—

	Population percentage.	Proposed percentage of seats.
Punjab	54.8	56
Bengal	52.6	53
Bombay	20.4	28
United Provinces	14	24
Bihar and Orissa	10.5	20
Madras	6.5	12
Central Provinces	4.3	9

(N.B.—The figures above were calculated from the Census figures of 1911.)

In an enlarged council, say, of 200 to 280, i.e., double the present number, Hindu electorates including the special electorates are likely to be captured by Extremists. The only combination opposed to them will be a combination of Moslems and Europeans and a few perhaps also from the depressed classes. Hitherto, the refined and cultured Moslems of the old school, or those who have a stake in the country, have been largely conspicuous by their absence from the council, and a large number of those Moslems that get elected come from classes whose adherence to this or that party is likely to remain venal. This is also a factor which ought to be taken into consideration. Therefore, Moslem representation must be fixed on the population basis, for if out of the 55 per cent. some are gained over by Extremists,

a sufficient number will still be left over in combination with Europeans and a few depressed class members to oppose effectively the Extremists that will be there.

In February, 1926, the Muhammadans in the Legislative Council carried a resolution "recommending readjustment of seats in the council so as to provide that representation in the council should be proportionate to the numerical strength of different communities in the province with just and proper representation of minorities and commercial interests." Furthermore, the Government of Bengal in their Memorandum for the Simon Commission stated that "A majority of the members of Government are of opinion that the representation of the Muhammadan and non-Muhammadan elements on the legislative council through the general constituencies should be proportionate to their numbers in the population, that is, that on the basis of the 1921 census, the Muhammadans should have about 55 and the non-Muhammadans about 45 per cent. of the members representing the general constituencies."

Further, the Simon Commission have recommended the lowering of the franchise. If the one-rupee union rate is adopted, the Muhammadan vote will increase from 513,000 to more than 1,121,000; and the Hindu vote from about 540,000 to 900,000; and it will be seen that Muhammadan representation of 55 per cent. and Hindu representation of 45 per cent. will be roughly the approximate ratio of the number of voters to the number of representatives.

Finally, it should be noted that the Lucknow Pact was entered into before the historic declaration of 1917. It was then contemplated that the proportion of representatives of the two important communities as agreed to would only remain in a system of government conducted with local councils, more or less as an advisory body, where the executive would retain sufficient power to redress any wrongs on either side wherever they occurred. At the present moment, however, the constitution visualised is a great advance. In fact, it is intended to introduce self-government almost to the fullest extent and the legislature will not be of the same complexion but will have complete control over the executive. Such being the case the Lucknow Pact *ipso facto* becomes obsolete and should on no account have been taken as a basis for fixing the ratio of representation in a constitution of the kind proposed; nor should it be left within the ambit of Parliament to reduce an actual majority, wherever found in any of the constituent states of the federal system, into a minority by an Act of Parliament.

Note dated the 16th August, 1930, on communal representation by a Hindu member of Government.

From the Chief Secretary to the Government of Bengal, Appointment Department, to the Secretary to the Government of India, Reforms Office. No. 222 A.C., Dated Calcutta, the 22nd August, 1930.

Views of the Government of Bengal on the Report of the Indian Statutory Commission.

With reference to last paragraph of Appendix A to my letter No. 219 A.C., dated the 15th of August, 1930, on the above subject, I am directed to submit herewith a note, dated the 16th August, 1930, on communal representation by a Hindu member of Government.

The Hindu members of Government were opposed to the continuance of communal representation. They did not think it necessary to enter into any general discussion affecting the question, because the arguments for and against such representation were so well-known. They, however, desired to include in their memorandum certain special points apart from the well-known general points. They further wanted to examine the question particularly from the point of view of the problem affecting this province. Before the memorandum was finally prepared one of the Hindu members of Government unfortunately tendered his resignation. It was not possible, therefore, to complete the whole memorandum as one submitted jointly by the Hindu members. Both the Hindu members however were opposed to the continuance of communal representation. The remaining portion of the memorandum, therefore, represents the opinion of the only Hindu member who is left in the Government.

This member is of opinion that communal representation has prevented a sense of common citizenship growing up. It has perpetuated cleavage between the two communities and such cleavage has, in the opinion of the member, resulted in physical conflicts and creation of disruptive forces, dangerous to the structure of society. It has at times resulted in such tense feeling between the two communities as to affect the normal life of the people. Within recent years there were communal conflicts on a large scale in Calcutta, Kulkati in Barisal, Madaripur in Faridpur, extending to portions of the eastern tracts of the district of Barisal, in Pabna, twice in Dacca and at Kishorganj in the district of Mymensingh. On each of these occasions the communal feeling became bitter and intense. In the opinion of the member it is neither necessary, nor relevant, for a proper consideration of the question at issue, to apportion the blame between the two communities. The only relevant point is the existence of the bitter feeling. In Dacca on both occasions the Hindus charged the Muhammadans with unprovoked assaults and the Muhammadans reciprocated the charge. Many members of both the communities believed in these charges and counter charges. There was considerable loss of life and property and the position of the authorities whose duty it was to maintain peace became acutely difficult. In Dacca the Muhammadans complained that the Hindus refused to employ Muhammadan masons and hackney carriage drivers. When the Hindu peacemakers approached the members of their community on this point they were met with the reply that the Muhammadan masons and hackney carriage drivers were responsible for loss of life and property of the Hindus and so they did not want to employ them. At Kishorganj a whole countryside was reduced to a state of panic, considerable property was looted and a number of persons were brutally murdered. It has been suggested by the Muhammadans that a good deal of this lawlessness was due to the fact that moneylenders and the wealthier men mostly came from the Hindu com-

munity, the debtors and the poorer men from the Muhammadan community. It was further suggested that the origin of the trouble was economic and not communal. Whatever the origin might have been the actual result is well-known. It is clear that these communal conflicts seriously affect the economic side of life of the general citizen.

During the Calcutta riots this member, along with a number of Hindus and Muhammadans, tried to form a peace committee to relieve the communal tension. His experience of the efforts of the Calcutta peace committee convinced him that influential members of both communities who had political ambition and desired to stand for election either from Hindu or Muhammadan seats were very reluctant to take a helpful attitude. They were afraid of their chances of success in the next election, whether for some seat in the Calcutta Corporation or in the Legislative Council. He is convinced that if the important citizens of both the communities knew that in the next election it would be necessary for them to approach the voters of both the communities, then they would have tried their utmost to relieve the communal tension and approach the questions before them from a very different spirit.

Five years ago communal feeling in Bengal on the Hindu side, at any rate, was negligible. The leading men amongst the Hindus, who were Bengalis by birth, had very little of communal feeling against the Muhammadans. When the Hindu Sabha and the Sangathan movement was started in other parts of India it made very little impression on Bengalis by birth. The Bengalis by birth were so averse to taking up this movement that the Hindu Sabha had to look to a Marwari or upcountry gentleman, Babu Padmaraj Jain, to be the Secretary. The sympathisers of the movement were mainly confined to the Marwaris and other orthodox upcountry men who settled in Bengal. Hindu orthodoxy in the sense as it obtains in other parts of India is a rapidly diminishing factor in Bengal. For that and other reasons the Bengalis did not sympathise with the Hindu Sabha or the Sangathan movement. An examination of the activities of the Hindu Sabha movement and of the personnel of the committee of that Sabha will show that there were very few well-known Bengali Hindus interested in it. The physical conflicts and the resulting lawlessness of the Calcutta riots created a change for the worse in communal feeling amongst the Bengali Hindus. The Pabna riots made the position worse, and the Dacca and the Kishorganj affairs have accentuated that feeling. Even at the present moment, in spite of these disturbing factors, communal feeling is not as bad as it is represented to be. The best incentive to recruitment to the Hindu communal camp is these riots and the physical conflicts. In the opinion of the member one important factor which is increasing the bitterness between the two communities in Bengal is the creation of public opinion on communal lines. This, in his opinion, is the

direct result of separate electorates. The attitude taken or supposed to have been taken by a number of high police officials, particularly in the districts, have created a feeling amongst a considerable section of the Hindu community that these officials are pro-Muhammadan and anti-Hindu. This state of feeling may be unfortunate, but it exists. As the struggle for power in opposite communal camps will increase, the position of the British officials is likely to become more and more difficult. This, in the opinion of the member, is an additional reason for abolishing separate communal electorates.

In the opinion of this member the great danger before the country to-day is the increase of disruptive forces of society so as to affect the economic life of the people. Maintenance of law and order to ensure liberty of action may be difficult, but not a tenth as difficult as taking adequate steps to minimise forces so insidiously affecting the economic life of the people. In his opinion communal representation is a source of great danger with regard to the last mentioned point. The greater the rivalry between the leading men of the two communities for division of political power the greater the danger to the economic structure of the society if communal representation be perpetuated.

One Muhammadan objection against joint electoral bodies was that such bodies would elect only those Muhammadans who are sympathetic to the Hindus. There may be a good deal of substance in this objection in provinces like the Central Provinces where the Muhammandan percentage* was only 4·1, Madras where that percentage was only 6·6, in Bihar and Orissa where the percentage was only 10·6, in the United Provinces where the percentage was 14, and in Bombay where the percentage was 20·4. But in Bengal and in the Punjab, where the percentage was 52·7 and 54·8 respectively, there is no force in this contention. On the other hand, the Hindu community might well apprehend that in these two provinces only Hindus sympathetic to the Muhammadans would be elected. The Simon Report at the bottom of page 71 of Volume II has hinted at introduction of joint electorates for Bengal and the Punjab. The member desires to draw attention to it.

Then again in Bengal the Muhammadan population being large, electioneering education of such population on communal lines has increased and will increase still further the cleavage which will lead to physical conflicts on a much larger scale than in the other six provinces where the percentage is small.

The district board elections in Bengal, particularly in Eastern Bengal, demonstrate the fact that the Muhammadans do not run any risk of returning pro-Hindu members of their community. These elections further prove that in spite of the supposed superior wealth and position of the Hindus, Muhammadans are returned in such large numbers as to form a majority.

---

* The figures for the percentages are taken from the Census of India of 1911.

If the system of joint electorate be adopted in Bengal then the Hindus run a serious risk of the elections being dominated by the Muhammadan majority, but in the wider interest of creating a sense of common citizenship the Hindus are willing to take this risk. They are by no means blind to the fact that in the first few elections they are likely to suffer materially. If joint electorates be accepted for Bengal then it will be necessary for the Franchise Committee to examine the question of allocation and reservation of seats for both the communities.

Assuming that communal electorate will be perpetuated in Bengal, it will be necessary to determine the principle which will govern the numerical strength of the elected members of the two communities. In the opinion of the member, the Simon Report has given as favourable a decision as possible to the Muhammadan community in Bengal. Neither the Muhammadan members of the Government of Bengal nor the British members have given any cogent and satisfactory reasons for deviating from the decision of the Simon Report. He would point out that the majority community has no right to ask for separate electorate. It ought to be against all fundamental ideas of justice that if in the 6 out of the 8 provinces weightage be given to the Muhammadan community, if in these 6 provinces their representation be not on the population basis, then their representation in the two provinces where they are in a majority should also be on a population basis. It is not fair to claim the advantages both ways and to disregard the disadvantages. The member is constrained to remark that the attitude of the British members of the Government in this respect is incompatible with their claim to hold the balance between the two communities evenly. One British member of the Government when submitting the memorandum of this Government before the Simon Commission, dissented from the proposition that the representation of the Muhammadans should be on the basis of their population ratio. What induced that member to change his opinion has not been made clear.

Communal representation was first introduced when the Morley-Minto scheme was under discussion. The introduction of communal representation at that time was an act of the British authorities. The sixth point mentioned in justification for communal representation was that " with joint electoral bodies only Muhammadans sympathetic to the Hindus would ever be elected." (Simon Report, vol. I, page 184.) It has already been pointed out that this point cannot have any application to Bengal Lord Minto no doubt accepted the arguments of the Muhammadans. He was then dealing primarily with the all-India aspect of the problem. Further, under the Morley-Minto scheme there was no question of wide electorates or representation on the basis of population. The decision which followed the inauguration of the Morley-Minto scheme gave a representation which was actually very much less than what should be on the population basis. The

separate representation obtained by the Muhammadans in the Imperial Council was only 5 seats, 1 for each of the three Presidencies, 1 for the United Provinces and 1 for Bihar and Orissa. In the provincial Councils, Madras and Assam were to have 2 Muhammadan members, Bombay, Bihar and Orissa and the United Provinces 4 each, and Bengal 5 only out of a House of 50 containing 27 elected representatives. In the Punjab special protection was not considered necessary. Under the Montagu-Chelmsford scheme the Muhammadans gained a great advantage, but such advantage was not based on the decision of the British authorities, nor was it based on an examination of the justice of the case. It was based on a compromise arrived at between the two communities by what is known as the Lucknow Pact. That pact no longer exists. One of the communities has expressed in no unequivocal terms that there should be no communal representation. The question, therefore, has to be examined on its own merits. If the question be examined on its own merits it is necessary to take into consideration not only the population and the voting strength but also the contribution of each community to the taxes of the provincial and of the central Governments. A question like that can only be conveniently examined by a special committee. The member desires to suggest that such a committee should be set up. The committee should consist of an equal number of Hindus and Muhammadans with some public men from England. The public men should be selected from persons who have an open mind. The member desires to express the opinion that if in Bengal the question be considered by an impartial committee from the points of view mentioned by him, then it is extremely likely that the number of seats to be separately reserved by communal electorate to the Muhammadans will not be more than 30 per cent. of the total number of the elected seats.

He desires further to submit that as the basis of the compromise embodied in the Lucknow Pact is no longer in operation, the number of Muhammadans in the Central Legislature should depend not only on the population basis for the whole of India but on the voting strength and the rating strength of the members of such community. Once the total number of the seats to be reserved for the Muhammadan community in the Central Legislature has been fixed, then it should be left in the first instance to the members of that community in the different provinces to allocate the number of seats in the Central Assembly as also in the provinces. After the members of that community in the different provinces have agreed to do so, then the Hindu community should be heard on that point and a final decision should be arrived at.

The member also desires to refer to the previous memoranda submitted by him on the subject when this question was discussed by the Government of Bengal in connection with their memorandum to the Simon Commission.

Letter from the Government of Bengal, to the Government of India, Reforms Office, No. 1013-A.D., dated the 18/20th September, 1930.

SUBJECT :—*Views of the Government of Bengal on the Report of the Indian Statutory Commission.*

With reference to paragraph 18 of letter No. 219-A.C., dated the 15th August 1930 on the above subject, I am directed to submit herewith a further note, dated the 9th September 1930 by the Muhammadan members of Government on communal representation.

Note, dated 9th of September, 1930, on Communal Representation by the Muhammadan Members of Government of Bengal.

All arguments for and against the retention of communal or separate electorates have been threshed so threadbare that the Moslem Members of Government did not think it necessary to refer to this matter in their previous note on Moslem representation in the local Council. Since, however, a note has been added on the subject by a Hindu Member and since a few other matters have been touched upon by him in a previous note, added as Appendix A to the letter from the Chief Secretary to the Government of Bengal to the Secretary, Government of India, Reforms Office, dated 15th of August 1930, the Moslem Members would refer to these points briefly in the present note.

Separate electorates were recognised as necessary by Lord Dufferin as early as 1888 and then by Lord Lansdowne in 1892. Lord Minto in 1906, in reply to an address presented by a deputation of leading Moslems headed by H. H. The Aga Khan (Ref. E. Ind. 209), gave clear and distinct assurance that separate electorates would be introduced. The assurance given by Lord Minto was confirmed by Lord Morley in the House of Commons in the following words :—

> " The Muhammadans demand three things. I had the pleasure of receiving a deputation from them and I know very well what is in their minds. They demand an election of their own representatives to these Councils in all the stages just as in Cyprus, where I think the Muslims vote by themselves . . . Secondly, they want a number of seats in excess of their numerical strength. These two demands we are quite ready and intend to meet in full."

Separate electorates were granted to Moslems in the Reforms of 1909, accepted by the Hindus in the Lucknow Pact in 1916, and maintained by the Montagu-Chelmsford Reforms of 1919. The All-India Muslim League, at a meeting at Lahore in 1924 under the presidency of Mr. Jinnah, passed a resolution claiming separate electorates for Moslems in the future constitution of India. A

similar resolution was passed by the All-India Muslim League at Aligarh under the presidency of Sir Abdur Rahim on the 31st of December 1925, the resolution being moved by Sir Ali Imam. Again on the 31st of December 1926, at the Annual Session of the All-India Muslim League at Delhi, Mr. Jinnah moved a resolution in favour of separate electorates. The resolution was carried unanimously. At the historic All-India Muslim Conference held at Delhi on the 1st of January 1929, where Moslems of all shades of opinion met together for the first time, the same demand was reiterated.

It will thus be seen that Moslem India is unanimous in insisting upon separate electorates in the conditions that now prevail. This question has been examined at great length by the Simon Commission and we would refer to pages 137-139 of Vol. I and pages 56 to 60 of Vol. II of their Report. The Commission are unanimous in holding that communal representation for the Muhammadans of a province must be continued. We may also add that separate electorates have been recommended in the reports of almost all the Provincial Committees that were appointed to assist the Simon Commission. These Committees, as is known, were composed of both Hindus and Moslems.

We now refer to the main objections raised against separate electorates, viz :—

(*a*) That they are against the teachings of history and perpetuate class divisions. The answer to this will be found in the following quotation from the Bengal Legislative Council Proceedings, 1918, Vol. XXVII :—

> "The history of what nation, what country, one naturally asks? If one goes to history for assistance one stands upon dangerous grounds. In the history of what nation, and of what country, have we got an example of the system of government which is offered under the reform scheme? We cannot find a historic precedent and example anywhere. The only reasonable reply to a demand for historic example would be that the conditions and circumstances of India are unique and unprecedented. It is on these unique and unprecedented conditions and circumstances peculiar to India that the Muslims base their claims for communal representation. 'It perpetuates class division.' This proposition provokes the smile of every student of Indian history. Class and caste divisions stereotyped in the adamantine mould of immemorial custom going back to the days of Asoka and Chandragupta and beyond, do not, for their perpetuation, stand in need of a council election every three or five years, which touches only the barest fringe of the vast population of India."

(*b*) That they are responsible for communal riots. For an answer to this we would only quote the following from the Supplementary Note to the Indian Central Committee's Report at page 44 :—

> " The perennial cause of communal riots, if the truth is to be told, is the intolerance of the communities concerned and their lack of mutual forbearance and self-restraint, and the weak and vacillating policy of the authorities....."
>
> " Long before the inauguration of the Reforms, Morley-Minto or Montagu-Chelmsford, long before the birth of separate electorates, the bigotry and intolerance of the followers of the rival creeds converted almost each of the three principal feasts of Islam (viz., two Ids and Muharrum) into a veritable feast of tears and sorrow. The Baqr'Id and Muharrum have always been the source of annual anxiety to all concerned and the cause of disturbing the friendly relations which normally subsist between Hindus and Muslims. To this has lately been added the provocation of what is called ' Music before Mosque ' . . . The Hindus claim their civic right of using the King's highway and of playing music as they like, but they deny at the same time the use of the King's highway to the despised untouchables and challenge the Muslim's right of leading along the same highway their sacrificial cows to the places consecrated for sacrifice. . . . The unprejudiced observer will be convinced that there is no connection whatever between communal electorates and communal riots and that the causes of these troubles are of old standing and rooted in the difference of manners and customs of Hinduism and Islam."

It would be obvious to any impartial observer that the recent riots to which reference has been made in the Hindu Member's note, are not in the least due to separate electorates. In fact the reverse would be more correct. In a joint electorate communal passion is more likely to be engendered. Both the Muhammadan and the Hindu candidate would be likely to appeal to the communal feelings and bitterness of the voters in a mixed electorate, and thus there is much more likelihood of a larger increase in communal riots; whereas a Moslem candidate can scarcely appeal to communal passions against another Moslem candidate in an electorate of their own. This is equally true of the Hindu candidate. In this connection we would also refer to the Supplementary Notes by the late Nawab Bahadur Saiyid Nawab Ali Choudhury, Khan Bahadur, C.I.E., of Dhanbari, and Nawab Mushraff Hossain, Khan Bahadur, on pages 248 to 251 and 229 respectively of the Report on the Working of the Reformed Constitution in Bengal, 1921-27.

A reference has been made to the district board elections in Bengal, particularly East Bengal; but while example has been cited from Eastern Bengal, nothing has been said of Western Bengal. In the former, Moslem population is on average 70 to 80 per cent., and that is why Moslems are returned in large numbers. But what about Western Bengal, where conditions are just the reverse? On a reference to Appendix G of Government of Bengal's publication entitled, " Resolution Reviewing the Reports on the Working of District Boards in Bengal, during the year 1928-29," it will be seen that out of 15 districts that comprise East Bengal, the percentage of Moslem members of district boards is over 50 per cent. in 11 only; whereas out of 11 districts in West Bengal, the percentage of Moslem members varies between 4 per cent. and 23 per cent. in 8 of them. The percentage of total Moslem members of district boards, taking both East and West Bengal, is only 40.8 per cent. It must be remembered that these figures include members who have been appointed by Government to adjust the communal balance. Almost the same percentage will be found in the local boards, and in the union boards it is still less. From this it will be apparent that, even taking the preponderating Moslem population of East Bengal with that of West Bengal, Moslems scarcely have a fair chance of being returned in adequate numbers through joint electorates.

The Moslem Members do not agree with the Hindu Member of Government that " if the recommendations of the majority of the Government are accepted it will inevitably lead to a rapid disintegration of the structure of society in India—including British and Indian." They agree that the existing franchise should not be broadened by more than double and not treble as suggested in paragraph 106 of the Commission's Report. They also share the Hindu Member's apprehensions that the class of Muhammadans that will be returned to the enlarged Council through the enlarged electorates, might have a less stabilising influence than those who now come by the door of election. If any feasible scheme is worked out, such, for instance, as election through separate electoral colleges for each community, it might have their support.

Finally they wish to lay stress on the fact that the Lee rate of Indianisation should, if anything, be retarded on the ground that the present rate is working unfairly to Muhammadans. They urge that, if the present rate is maintained, then it should not be done to the detriment of any particular community, but should be carried on gradually with due regard to the communal proportion and to the securing of the widest possible confidence in the administration.

CALCUTTA HIGH COURT.

From the Registrar of the High Court of Judicature at Fort William in Bengal, Appellate Side, to the Joint Secretary to the Government of India, Reforms Office, No. 11,741-G., dated Calcutta, the 18th July, 1930.

SUBJECT :—*Centralization of High Courts.*

I am directed to refer to your letter No. F. 67/30-R., dated the 24th June, 1930, requesting an expression of the Court's views on the recommendations of the Indian Statutory Commission on the above subject and to say that the Honourable the Chief Justice and Judges fully approve of the recommendations of the Commission as to High Courts.

UNITED PROVINCES GOVERNMENT.

From the Chief Secretary to Government, United Provinces, to the Joint Secretary to the Government of India, Reforms Office. No. 4949-C, dated Taini Tal, August 23, 1930.

Subject.—Recommendations of the Indian Statutory Commission.

I am directed to submit herewith the views of the Government of the United Provinces on the recommendations made by the Indian Statutory Commission in the parts of their Report mentioned in para. 3 of the Government of India's letter No. F.67—30-R., dated the 24th June, 1930. As desired by the Government of India this Government have dealt with each matter in the order in which it comes in the Report.

2. As will be seen the local Government have confined themselves to questions which fall within the scheme as presented by the Commission. They have not considered, for instance, the reactions which would result in the provincial sphere from the adoption of any proposal to introduce a measure of responsibility in the Central Government. It is clear that such reactions would be far-reaching, and I am to say that His Excellency the Governor hopes that, should it be decided to bring this matter within the range of discussion, he and other members of his Government who may desire to express an opinion on the subject may be afforded an opportunity of doing so.

PART I.

Chapter 2.—The Mechanism of Advance.

3. In this chapter the Commission have pointed out that though the ultimate goal of responsible government is, according to the Preamble of the Government of India Act, to be reached by successive stages, there is no reason why the length of these stages should be settled in advance or why each stage should be marked by a commission of inquiry. The Commission then go on to point out the disadvantages of a temporary constitution, and suggest that what is wanted is the introduction of a constitution which will be sufficiently elastic as to be capable of adjustment to the particular needs of any given province at any given time. The results of fixing a ten-year period in the Government of India Act, 1919, are sufficiently well known, and in the opinion of this Government there can be no question that it is desirable if possible to establish a constitution which, instead of needing to be overhauled after fixed periods, will be capable of natural development to suit the needs of each province and of India as a whole.

Chapter 5.—The Need for Safeguards.

4. This chapter deals in a general manner with the need for safeguards in a new constitution, and lays down three main propositions, namely,—

(1) that the Army must be adequate for defence and for many years to come British troops and British officers with Indian troops will be necessary.

(2) that there must be a power to step in to preserve law and order and maintain the vital services and that this power should vest in the Governor General or the Governor, as the case may be, and

(3) that there must be some means of protecting the interests of minorities and that the only practical means of doing so is to vest the Governor General and the Governor with general powers.

This Government accept all three propositions subject to anything that is said in later portions of this letter in regard to the means of applying them, and in the case of Nawab Sir Ahmad Sa'id Khan subject also to the views in regard to the Army expressed by him in the extract from a note on that subject which will be found in the appendix to this letter. As the Government of India have not asked this Government for their views on the subject, the other Members of Government do not offer any opinion.

PART II.

Chapter 1.—The Provincial Executive.

Need for Provincial Redistribution.

5. The Commission consider that the present arrangement of provincial areas is not altogether satisfactory and that some re-adjustment is desirable. They recommend that a Boundaries Commission should be set up to investigate the main cases in which provincial re-adjustment seems called for and to endeavour to work out schemes with a view to seeing how far agreement is possible. This is a matter which does not directly concern this province. Though the province is large in area and densely populated, it contains no obvious or natural lines of division and constitutes a territory which is fairly homogeneous in regard both to race and language. A smaller unit would perhaps be more easily administered, but no division could be devised that would not give rise to much opposition. Furthermore, there is at present no public demand for such division. In these circumstances this Government assume that the position of this province would not come within the scope of the Commission's inquiry and on that understanding they do not desire to offer any opinion on the proposal.

Form of Provincial Government.

6. Before the structure of the provincial Government is considered in detail, it is necessary to decide the type of architecture to which it is to conform. Here the broad issue is whether the present dyarchic form of government is to be retained or whether it should, as recommended by the Commission, be replaced by a unitary government in which all division of subjects will be abolished and every subject will be administered by a ministry responsible to the legislative council. The risks involved in the establishment of any system of responsible government in this province are by no means negligible. They have already been described in the memorandum which the Governor in Council placed before the Commission, and it is unnecessary to repeat them here. They have not been lessened by the experiences of the past two years. But, having regard to the opinions expressed on the part of the Governments of other provinces, of the various Provincial Committees, of the Indian Central Committee and of the Commission itself in favour of the abolition of dyarchy and the establishment of a unitary system of government, the United Provinces Government are of opinion that this development must now be regarded as inevitable. They will deal below with the safeguards with which such a system of government must, in their opinion, be accompanied.

Composition of the Ministry and its relation to the legislature.

7. This Government agree with the following proposals relating to the composition of the Ministry and its relation to the legislature—

(1) That each member of the Ministry should be required to accept responsibility for the whole policy of the Government.

(2) That is should be open to the Governor, under the restrictions noted below, to include in the Ministry non-officials other than elected members of the legislature.

(3) That the salaries of Ministers should be fixed by provincial Statute and should only be alterable by a similar provision. (It is presumed that the Statute would deal only with salaries and not numbers of Ministers, the latter being more suitably left to be determined by circumstances.)

(4) That votes of censure should be admissible only when they apply to the Ministry as a whole.

His Excellency the Governor and the Members of his Executive Council also accept the Commission's view that in the new Governments it may be found useful to include certain minor posts, equivalent to those of Under Secretary in England. His Excellency's Ministers do not see the need for any such posts.

8. The proposal that the Governor should be free to include one or more officials in the Ministry is one on which the opinion of the members of Government is divided. Nawab Sir Ahmad Sa'id Khan and all three Ministers oppose the proposal. Their first

objection to it is that it will largely perpetuate the system of Executive Councillors because, as contemplated by the Commission, the official member will not necessarily change with each change of Ministry but may be reappointed as member of one Ministry after another. He will therefore have a different form of tenure from his colleagues. In the second place they feel that the presence of an official member will detract from the solidarity of the Ministry and be a source of weakness to it rather than of strength in the face of the legislature. They fear that just as at present the reserved subjects form a special point of attack in the council, so the matters in the portfolio of an official Minister will be subjected to special criticism, and that this may embarrass the position of the whole Ministry in the legislature. These two objections are explained in greater detail in the extract from a note by Nawab Sir Ahmad Sa'id Khan which will be found in the appendix to this letter. A further objection that has been made is that the inclusion of an official will affect the numerical strength of the Hindus and Muslims in the Ministry. His Excellency Sir Malcolm Hailey and Sir George Lambert consider that the Governor should be given the widest possible latitude in the choice of his Ministry and that there will be sufficient practical limitations on his freedom of choice without the imposition of statutory restrictions. They are not disposed to accept the objections mentioned above as decisive. In their opinion there will be no real comparison between the position of an official Minister and that of an Executive Councillor. In the first place the appointment of such a Minister will depend on the willingness of the other Ministers to work with an official on a basis of joint responsibility; it would be difficult to force him on a Ministry which expressed itself as unwilling to admit him as a colleague, and the decision as to whether there will or will not be an official Minister would not therefore in practice rest with the Governor alone. Again, if this initial difficulty is overcome, then the distribution of portfolios will be a matter of mutual arrangement between the Governor and the Ministers, and it will certainly not be possible for the Governor, even if he wished to do so, to decide that the official should hold charge of one of the portfolios which has up till now been under a member of the Executive Council. I am to add here that Sir Malcolm Hailey adheres to the view which he placed before the Commission as Governor of the Punjab, when putting forward this proposal in a slightly different form, that there should be no convention under which the official member of the Cabinet would hold charge of any definite portfolio such as Home or Finance. Indeed, his own view is that he should hold charge of a portfolio of minor importance so that he may have time to discharge what Sir Malcolm conceives should be his main function, namely, of acting as an expert adviser on administrative matters to the Cabinet generally. The Commission's observations regarding the retention of official Ministers in a new or reconstituted Ministry have been held to justify the comparison of an

official Minister with a member of an Executive Council. But the Commission have themselves expressly repudiated any resemblance between the two and the main object of their remarks in regard to the retention of an official Minister in a new Ministry appears to have been to try to meet the criticism that while non-official Ministers on resignation can retire into private life, the position of officials will be more difficult and resignation from the Ministry may involve also the closing of their careers. On this point all that need be said is that officials must obviously resign with their colleagues and that their inclusion in the new Ministry will depend not on any *fiat* of the Governor but on practical considerations, of which the most important will be the attitude of the other Ministers who will compose the new Ministry and the attitude of the legislature. It may be added that as the number of Ministers will probably be much greater than that of the present strength of Executive Councillors and Ministers combined, and as the salary attached to the post will consequently in all probability be much less than that of an Executive Councillor, it will be much easier for an official member of a Ministry to revert to his previous post than it would be under existing circumstances for a member of an Executive Council. The question whether an official will be a source of strength or of weakness to a Ministry is for the other Ministers to decide. The fear that he will be a source of weakness is hardly an adequate reason for preventing a Ministry which takes a different view from having the advantage of the advice and assistance of an official. Sir Malcolm Hailey and Sir George Lambert believe that the proposal, besides not being open to the objections urged against it, will have positive advantages both for the Ministers and for the Governor. It is inevitable that many Ministers will have no administrative experience, and it is certainly conceivable that some will realize the advantage of having a colleague who with no superiority of status but from the position of an equal will be available, when wanted, to give advice based on a long and intimate experience of administrative problems. It is also probable that the Governor, whose position will be very different from that of a Governor under the present constitution, will feel the need of having in the Ministry someone with administrative experience on whom he can rely to point out to the Ministry in their daily working the implications of decisions which they are contemplating and the probable or possible results of such decisions. The administrative machine is a highly complicated one, and it is not to be expected that persons entirely unacquainted with it will be able to ensure a smooth and efficient working without expert advice. It has been suggested that the appointment of a Principal Secretary, who would also be Secretary to the Cabinet, would secure the advantages expected from the inclusion of an official in the Ministry without being open to the same objections. There is indeed something to be said for this proposal in itself as securing to a Governor

the means of acquiring the information which will be necessary to him if he is to carry out his duties under the constitution. His Excellency will not, as now, be associated with the current work of the administration, and it is indeed doubtful whether the new relations which will exist between the Cabinet and the Secretaries will permit of the latter having (as now) regular access to the Governor. It is easy to secure to him full information as to Cabinet decisions, but a great deal will take place in departmental work of which he will need to be informed if he is to be in a position to assist Ministers with his advice, or indeed to act effectively where his intervention is necessary. His Excellency the Governor and Sir George Lambert would prefer to have an official Minister, but the other Members of the Government consider that a Principal Secretary would be more in keeping with the general scheme of the new constitution.

9. It has been pointed out that the proposal to permit the inclusion of non-elected persons, as made by the Commission, would leave the Governor free—subject to the superintendence and control of the Governor General—to appoint a Ministry wholly composed of such persons. There are of course practical considerations which would effectively prevent the Governor from doing any such thing, and the Governor in Council sees no need to include in the Statute a provision restricting the number of non-elected persons to be included in a Ministry. Even though this would restrict the Governor's field of choice and would introduce a greater element of rigidity in the constitution, His Excellency's Ministers would prefer to restrict the number by Statute to not more than one.

10. The Commission found themselves unable to recommend the inclusion in the Statute of any provision for the inclusion of members of minority communities in the Ministry. His Excellency the Governor and Sir George Lambert agree with the view taken by the Commission that in most provinces prudence, if not necessity, is likely to cause a Governor, with the full approval of the other Ministers, to include at least one Minister from an important minority community. But Nawab Sir Ahmad Sa'id Khan and His Excellency's Ministers would prefer not to leave this matter to be regulated by practical considerations [see extracts A (ii) and (iii) in the appendix]. They argue that in this province the Muslims will secure no more than 30 per cent. of the elected seats in the legislature and will therefore be in a permanent minority. There is at present little sign that the communal factor will in the future count for less in the formation of parties in the legislature than it has in the past. On the contrary, with a more complete transfer of power from an official Government to a popular legislature, and with the proposed removal of the official bloc, there is every likelihood that it will count for more. Non-Muslims will be in so large a majority that they may on occasion find themselves independent of the Muslim vote, and it may not be difficult to form

a purely non-Muslim Ministry which will be able to rely on the support of a majority of the legislature. These Members of Government therefore would like to see some definite provision made in the statutory rules laying on the Governor the obligation of securing in the Ministry some representation of minority communities, and they ask that if it is found impossible to make such a rule, then at least the Governor's responsibility in this matter should be clearly defined in the Instrument of Instruction. His Excellency's Ministers would like to see Hindus and Muslims represented in the Ministry in the proportion of two-thirds and one-third. The two official members of Government would be glad to find some way of removing the apprehensions of the Muslim minority for they feel that if this could be effected, the new constitution would start its career in conditions less likely to involve communal discord. But they see more than one difficulty in securing a definite statutory provision for the representation of the minority in the Cabinet. A statutory provision will not be necessary in ordinary circumstances in most provinces and the exceptional circumstances in which it may be needed will be exactly those in which the Governor will find it difficult, if not impossible, to fulfil the obligation laid upon him. Such circumstances will arise when communal feeling is very strong. If the Governor is then in the position of having to insist, for example, on a Hindu Chief Minister including a Muslim in his Cabinet, the only possible result will be the inclusion of a Muslim who will not have the confidence of his own community and will therefore not be in any true sense representative of it. A further consideration is that any statutory provision would have to be drawn in general terms to apply to all provinces; and there may be provinces in the Governments of which, up to the present, minority communities have not been represented owing to the fact that they are not of sufficient importance to justify representation. It would clearly be anomalous to impose on such provinces a provision requiring representation which has not been thought necessary up to date. The official members would agree that the Instrument of Instructions of the Governor should include an obligation to attempt to secure representation of the minority in the Cabinet, where such minority is in his opinion of sufficient importance to warrant this. But it must of course be recognized that though this may be of some value in itself, it cannot be in the fullest sense mandatory.

11. The Commission, while expressing the view that there should ordinarily be a Chief Minister, whom the Governor would consult before appointing other Ministers, propose that there should be no requirement in the constitution to make such an appointment. This Government are of opinion that in practice the Governor will ordinarily find it advisable to appoint a Chief Minister in the first instance; he would not himself have power to select his colleagues, but the Governor would find it convenient to

select other Ministers in consultation with him. The influence of a Chief Minister will make for unity in the Cabinet and will assist the Ministry in its relations with the legislature. Such an appointment will probably be approved by public men as being in consonance with the usual practice in western parliamentary governments. But on the principle of leaving the constitution flexible, where this can be done, so that it may more easily be made to fit the needs of a given province at a given time, there is no objection to the omission of any constitutional provision prescribing the appointment of a Chief Minister.

Cabinet procedure.

12. This Government do not desire to make any comments on the Commission's observations in regard to the part which the Governor should play in the day-to-day work of the Ministry or in regard to his presence at Cabinet meetings. The latter point is one which is best left to be settled by convention. They agree that he should retain his present power of making the rules of business (which would include provision for regulating the class of cases which would require a Cabinet decision) and that it is desirable that Ministers should be encouraged to reach decisions by mutual accommodation rather than by the counting of votes. It is assumed that if decisions are reached by a majority vote, the Governor would not himself exercise a vote. The proposal that a member of the Civil Service should be appointed to a new post of Secretary to the Cabinet, with special access to the Governor, is less acceptable to them [see extracts B (i) and (ii) in the appendix]. The work would clearly be insufficient to occupy the whole time of any officer and the appointment of a permanent official to discharge only the functions suggested by the Commission would be liable to misunderstanding and might give rise to unnecessary difficulties. All that is required is that the Governor should be kept fully informed of the names of the Ministers present and of the decisions reached at meetings from which he himself is absent. The Governor can provide for this himself in the rules of business.

Over-riding powers of the Governor.

13. In accepting the proposal that dyarchy should be abolished and that the new provincial Government should be a unitary one responsible to the provincial legislature, this Government have also agreed to the need for certain safeguards. In the provincial sphere the most important of these are that the Governor should have power to direct action to be taken otherwise than in accordance with the advice of his Ministers (1) in order to preserve the safety and tranquillity of his province and (2) in order to protect the interests of minority communities. This Government attach great weight to these safeguards. It is not without considerable

hesitation that they have accepted the proposal to transfer all subjects, and they would not have found themselves able to do so, if the Governor were to be in the position of a strictly "constitutional" Governor, bound in all circumstances to accept the advice of his Ministers. It is, however, obvious that the Governor's powers to over-ride his Ministers should not be unrestricted, and this Government readily agree, first, that in all such matters the Governor should be subject to the superintendence, direction and control of the Governor General, and, secondly, that the purposes for which these special powers may be exercised should be clearly stated in the Statute. The Commission have suggested five purposes, two of which are fundamental to the peace and good government of the province, and the other three mainly technical. They have proposed that for those purposes the Governor should be given statutory power—

(*a*) in the administrative sphere to direct that action be taken other than in accordance with the advice of his Ministers,

(*b*) in the field of legislation to secure the passage by means of certification of Bills rejected by the legislature, and

(*c*) in the financial sphere to restore by means of certification grants rejected by the legislature.

It will be convenient to consider all these special powers at one time, as the criticism has been made that taken together they give the Governor considerably wider powers than he has at present, and to that extent will actually restrict rather than increase the measure of responsible government in the provinces. It is necessary to consider each sphere separately, as it is not essential —though it might be logical—to give the Governor the same power to over-rule the legislature in matters of legislation and finance as he is given to over-rule his Ministers on purely administrative questions.

14. *Administrative sphere.*—(1) This Government are agreed that it is essential that the Governor should have power to overrule his Ministers "*in order to protect the safety and tranquillity of the province.*"

(2) The second purpose of intervention, as proposed by the Commission, is "*in order to prevent serious prejudice to one or more sections of the community as compared with other sections.*" This Government are agreed that the Governor must be given power to intervene in order to protect the interests of minority communities. They realize the difficulty which a Governor is likely to experience in exercising such a power, and they are impressed by the view that the power is likely to be more effective if his hands can be strengthened by some statutory provision laying a positive obligation upon him. There is good reason to believe that the Muslim community will not be satisfied without some stronger and more effective safeguard than that proposed by the Commission, and this

Government feel that every effort should be made to meet the wishes of the Muslims on this point. It is probable that Europeans and Anglo-Indians will share this feeling, if only in view of the fact that the subject of European and Anglo-Indian education, now a reserved subject, will in future lack this protection. The main difficulty lies in drafting provisions which will be at the same time sufficiently general to be suitable for inclusion in a Statute and sufficiently definite to be really effective. The principal matters in which the Muslim community demand safeguards are these—

(i) use of the Urdu language,
(ii) religious rights and usages,
(iii) personal law,
(iv) educational facilities,
(v) representation in local bodies,
(vi) representation in the public services.

They would like to see provisions included in the Statute which would recognize their special rights in all these matters and state in general terms the principles on which these rights should be given effect to. They point out that guarantees for the protection of minorities have been included within recent years in the constitutions of certain European States, such as Poland, Czecho-Slovakia and Yugo Slavia, and they are not satisfied that similar guarantees cannot suitably be included in the Statute which will regulate the new constitution in India. The Commission have observed that the provisions in the European constitutions have not been of much practical value, and this Government realize that similar provisions in the Indian constitution will be of little use unless a definite obligation to give effect to them can be laid on some authority and unless there is a definite sanction behind them. The only possible authority will be the Governor, or the Governor General, as the case may be, as it would be clearly undesirable to make the enforcement of these provisions depend on an appeal to the courts. Such an appeal has been formally provided in some constitutions, e.g., in the British North America Act of 1867 and in the new German constitution, but in India the effort has consistently been to avoid a procedure of this nature, which is likely in practice to prove both contentious and dilatory. The whole matter is clearly one that requires further detailed examination in consultation with the recognized representatives of the principal minority communities, and all that this Government feel called upon to say at this stage is that they would agree to the inclusion in the Statute of provisions of a general nature, provided that the obligation of giving effect to them is definitely laid on the Governor.

(3) The third purpose is "*to secure the due fulfilment of any liability of Government in respect of items of expenditure not subject to the vote of the legislature.*" Some doubt exists whether a power of intervention for this purpose is really required, and it has been suggested that the object could be secured by making

provision in the Statute by which all expenditure of the kind referred to will be made a first charge on provincial revenues. It is doubtful, however, whether such a provision would, in the absence of the further power suggested by the Commission, definitely secure the actual payment of these sums.

(4) The fourth purpose is defined by the Commission in these words "*to secure the carrying out of any order received by the provincial Government from the Government of India or the Secretary of State.*" It is presumed that this provision applies primarily to the enforcement of the orders received by the local Government from the Government of India in the matters included in the categories given in para. 182 of the Commission's Report. To this extent this Government agree that the power is necessary; and they also accept the view, advanced by the Indian Members of the Government, that the Statute should make it clear that the powers of the Government of India (and consequently those of the Governor also) in this respect should be limited to matters included in those categories. It is not clear why the Commission have included a reference to orders given by the Secretary of State. As shown at para. 350 of the Commission's Report, the Secretary of State would, in the provincial sphere, issue instructions only on those matters in which special powers are reserved to the Governor, and it is presumed that instructions on these points would reach him through the Governor General. They would, as shown above, be defined by Statute, and would not extend to a general power of intervention over the whole sphere of provincial administration save, presumably, in the circumstances described in paragraphs 65 and 98 of the Report, i.e., when the normal constitution is suspended. This also is a matter which will require clear definition in the drafting of the Statute.

(5) This Government agree that the Governor must be given special over-riding powers for the fifth purpose, namely, *to carry out any duties which may be statutorily imposed on him personally.*

This Government desire to add that in drafting the Statute care should be taken to distinguish the matters on which the personal powers of the Governor are final from those in which he is to be subjected to the control and directions of the Governor General. The existing Statute is deficient in this respect. The point will become of considerable importance in the future, owing to the fact that the Governor will exist as a statutory authority apart from the local Government.

The Commission have anticipated the objection that these special powers to be given to the Governor are greater than those at present exercised by him in relation to transferred subjects. The objection has no real foundation. At present a Governor has, under subsection (3) of section 52 of the Government of India Act, an unlimited and uncontrolled power to reject the advice of his Ministers and direct action to be taken otherwise than in accordance

with that advice whenever " he sees sufficient cause to dissent from their opinion." Under the Commission's proposal he will be empowered to exercise the special power only for the specified and limited purposes dealt with above.

15. *Legislative sphere.*—In the opinion of this Government the Governor should be given power to secure legislation for the first of the five purposes referred to in the previous paragraph. It is however doubtful if any occasion would arise for his securing legislation under the purpose described as (3), while as regards (4) the Government of India should be able to secure their position by virtue of their power of co-extensive legislation. No occasion seems in practice likely to arise for legislation to secure the purpose described as (5). In regard to the need for an affirmative power of legislation for the second purpose, namely, to secure the protection of minority interests, there is some difference of opinion among the Members of Government. The exercise of the power of the Governor for the protection of minority interests would ordinarily take the form of vetoing legislation prejudicial to such interests or in the alternative, utilizing the power of returning the Bill for reconsideration, or reserving it for consideration by the Governor-General, it being assumed that provisions similar to those embodied in section 81-A of the Act of 1919 will be repeated in the new Statute. His Excellency's Ministers, however, would like to see an affirmative power of legislation placed in the hands of the Governor. The other Members of Government doubt whether this is a power which the Governor would in practice ever be able to exercise, but they are quite prepared to agree that it should be given him (subject to its being found possible to secure a suitable form of definition) if important minority communities press for it generally. It must, however, be realized that it would give to the Governor a somewhat wider power than he has at present, since he could not, under his present powers, secure by certification the passage of a Bill relating, for example, to Muslim or depressed class education, whereas under the Commission's proposal he would be able to do so " in order to prevent serious prejudice " to either of these communities as compared with other communities. In para. 43 below this Government make a new suggestion for the protection of minority communities from discriminatory legislation, namely, that a provision on the lines of section 67 (2) (*b*) of the Government of India Act should be applied to legislation in provincial legislatures.

16. *Financial sphere.*—This Government agree that the Governor should have the power of restoring rejected grants for the first, second, fourth and fifth of the purposes mentioned in para. 14 above. This power is not necessary for the third purpose which refers only to items of expenditure not subject to the vote of the legislature. They also agree that he should have the full financial

powers conferred by proviso (*b*) of section 72-D (2) of the Government of India Act for exercise in the case of emergency. A reference to para. 65 of the Report would seem to show that it is intended that this emergency power should only be utilized after a statutory declaration by the Governor that a state of affairs has arisen under which the government of the province could not be carried on under the ordinary constitution provided in the Statute. That declaration would be reported to Parliament. In effect, the Governor would in these circumstances replace the Cabinet for all purposes and a question arises whether the terms used in the present Act, viz., " for the carrying on of any department " would in that case be sufficiently comprehensive. They would probably prove to be so if the Statute gave him final power to define the expenditure necessary for this purpose, but some variation of the language used might perhaps be found desirable, for it might happen that—if the period of this special use of power were prolonged—he might have to meet a considerable variety of expenditure, including non-effective charges, grants to local bodies and even payment of loans to which the local Government stood committed. It is certainly desirable that the Statute should make it clear that the Governor's declaration of the existence of a state of emergency should be final, and not open to question in the courts.

17. The Commission recommend that the Governor should have a power of emergency legislation by ordinance over the whole provincial field. A comparison of paras. 98 and 65 shows that it is intended that this power should come into being only in the circumstances described above, i.e., after a declaration of the suspension of the normal constitution. It is of course intended that in issuing such ordinances the Governor should act under the supervision and control of the Governor General, but it is not made clear whether the ordinances would be made subject to the procedure which now prevails in regard to Regulations (section 71 of the Act). If that procedure is enforced, it must be assumed that the authority of the Governor General would be substituted for that of the Governor General in Council, since the Governor will in this case take the place of the local Government. It may be open to some doubt whether the ordinance-making power need actually extend " over the whole provincial field " ; it would probably prove sufficient if the Governor were given the same power in regard to emergency ordinances as in regard to emergency expenditure.

18. The Commission have not proposed to give the Governor any power of intervention to secure the financial stability of the province. They consider that so wide a power of intervention would hinder the growth of responsibility, and that the Government of India's power to control the provincial Government's borrowing will provide a sufficient corrective. On this point the view of this Government is that although intervention might perhaps be

most usefully exercised before any question of borrowing arises, a power to intervene in the interests of financial stability would be so wide that it might be difficult to justify it. Perhaps the best guarantee of financial stability would be secured by a convention that the authority controlling borrowing (para. 54 below) should refuse to sanction loans designed to meet expenditure other than that of a true capital or productive nature.

Chapter 2.—The Provincial Legislature.

19. In dealing with this chapter of the Report I am to state in the first place those recommendation with which this Government agree and in regard to which they have no comments to make, and thereafter to deal with those proposals which do not admit of such summary disposal. This Government are prepared to accept the following proposals :—

(1) That the normal statutory life of provincial legislatures should be extended to five years and that the Governor's power of extending this statutory period should be limited to the purpose indicated in para. 135 of the Report, namely, to bring the life of the council to an end at the same time as the life of the Federal Assembly.

(2) That the size of the legislative councils should be increased. His Excellency's Ministers would prefer a council with a membership not exceeding 200. The other Members of Government would not object to the present membership being doubled.

(3) That separate electorates for Europeans should be retained and that the present proportion between the number of European general seats and the number of Indian general seats should be maintained.

(4) That the present proportion of Muslim representatives should be maintained.

(5) That the official bloc should be removed and that the new Statute should make provision for the presence of officials, or other experts, without a right to vote, in committees of the legislature.

(6) That no special arrangement should be made to secure the election of women members either by prescribing that a certain number of seats must be filled by women or by reserving seats for women, but that women candidates should be given " a fair field and no favour."

(7) That if the Ministry includes non-elected members such Ministers should become *ex officio* members of the legislature.

This Government also accepts the proposal that subject to the safeguards recommended in para. 95 the legislative council should be empowered after a period of ten years to pass constitutional

resolutions providing for changes in the arrangement of constituencies, in the franchise and methods of representation. His Excellency's Ministers think such resolutions should not apply to methods of representation (see extract C in the appendix). Their colleagues see no need for the exclusion of methods of representation provided that the " two thirds " majority suggested by the Commission will be two-thirds of the actual number of members in each case and not two-thirds of the members voting. An obligation would of course fall on the Governor to exercise a discretion where the interests of a community represented by small numbers in the council were affected, such for instance as the European or Anglo-Indian community. But the proposals of the Commission make provision for the exercise of this discretion.

20. This Government also accept the Commission's proposals in regard to the representation of Anglo-Indians and commercial bodies with the slight modifications explained below. In the case of Anglo-Indians they would prefer to increase the representation in proportion to the increase in the total membership of the council. It seems undesirable to increase the number of European and Indian Christian seats in proportion to the increase in the total membership of the council and at the same time to leave Anglo-Indians with their existing representation of only one member. In the case of the two commercial constituencies, on the other hand, they would retain the existing number of members. The commercial bodies represent an interest rather than a community, and the important thing is that the interest should have a means of voicing its views in the council. The three seats which are at present given are sufficient for this purpose and this Government see no need to increase them to six.

Communal representation.

21. This Government are not concerned with the representation of Sikhs, non-Brahmins or Mahrattas, and in their consideration of this question of communal representation propose to confine themselves to the cases of Muslims, Indian Christians and depressed classes. They are in full agreement with the view of the Commission that the subject of communal representation is pre-eminently one which the rival communities should settle among themselves, but that in the absence of any new agreement between Hindus and Muslims communal representation for the latter community must be continued in this province for the present. The Commission have considered three different methods of securing such representation, namely, (1) by means of a system of reserved seats, (2) by means of a system of reserved seats combined with a system of previous selection of candidates by Muslim electors alone, and (3) by means of a system of proportional representation. They have rejected the first and third of these methods, and this Gov-

ernment agree with their view that the first would be entirely unacceptable to the Muslim community generally and that the third is at present impracticable. The Commission have suggested that the second method, called by them the system of " primaries," should be further considered by both communities to see if it provides a basis of agreement. This Government are not yet in a position to state what the views of the Muslim community generally are likely to be on this question, but I am to say that Nawab Sir Ahmad Sa'id Khan and all His Excellency's Ministers are opposed to the introduction of this system of election, and that this Government have reason to believe that that view would be endorsed by a majority of Muslims in this province. The Government as a whole accept the view that in the absence of agreement between the two great communities separate Muslim electorates must be continued.

Representation of depressed classes.

22. At present the Governor nominates one member to represent classes which in his opinion are depressed classes. In his report to the Commission the Governor in Council recommended that in future the Governor should nominate five persons to represent depressed and backward classes. The Committee of the United Provinces Legislative Council agreed that representation of both these classes should be by nomination and recommended that the number of representatives should be fifteen. The Commission have gone far beyond these recommendations. They reject the system of nomination on the ground that it provides no opportunity for training these classes in politics. They also reject separate electorates on general grounds of principle and also on two special grounds, namely, (1) that exact definition would be difficult and (2) that such electorates are likely to militate against the rise of these classes in the social scale. They therefore propose that seats should be reserved in the non-Muslim constituencies to be filled by the votes of the non-Muslim general electorates, and that the Governor should be required to certify which candidates are authorized to seek election. They realize that difficulty may for some time be experienced in finding sufficient suitable candidates among the depressed classes themselves, and suggest that, if this difficulty does arise, the Governor should for ten years, and in respect of half the number of reserved seats only, have the power either (1) to allow other than members of such classes to stand for election on their behalf, or (2) to nominate such other persons to reserved seats. Finally, the Commission recommend that the number of reserved seats should be fixed on the following principle—the proportion of the number of reserved seats to the total number of seats in all the Indian general constituencies should be three-fourths of the proportion of the depressed class population to the total population of the electoral area of the province. The Government of India

will not expect this Government at the present stage to enter into a detailed and exhaustive examination of this difficult question. The matter is one which will require careful investigation by the Franchise Committee which the Commission recommend. This Government therefore confine themselves to an expression of opinion on the main principles involved.

23. The Commission's proposal, as understood by this Government, would result in the return to the legislature of this province of about forty representatives of the depressed classes. The basis of this proposal is not the probable electoral strength of these classes but their total strength. The Commission have made no attempt to estimate their electoral strength. All that they say on this subject is that " there are, even with the present restricted franchise, a sufficient number of depressed class voters to make methods of election possible, at all events, in many areas." This Government have not the necessary information to enable them to say whether that statement is or is not accurate so far as this province is concerned. Their own opinion is that if the term " depressed classes " is defined with some strictness and held to include only the members of those castes which follow an occupation which is generally regarded as degrading, the number of persons belonging to those classes who are at present enfranchised will be found to be comparatively small. Even if the franchise be lowered, so long as the main qualification is the payment of rent for land or of land revenue, the number is likely to remain comparatively small, for the reason that the main occupation of these castes is not cultivation. Speculation in a matter of this kind is however useless and actual facts must be ascertained. The Governor in Council is not prepared to accept the proposal that the representation of these classes should be based on their total strength. This would give them a representation out of all proportion to their political importance. It is therefore essential to find out what the probable voting strength of these classes will be on whatever franchise is to be fixed for the general electorate—for there can be no question of a special franchise—and thereafter to consider what number of representatives can suitably be allotted. This Government propose therefore to initiate inquiries immediately so that they may have some material which they can put before the Franchise Committee and which may form a basis for their own proposals.

24. This Government also disagree with the Commission in regard to the method of election. They agree that it is desirable to introduce some system of election in place of nomination, but they dislike the proposal that the election should be made by the non-Muslim electorate to a number of reserved seats. As explained in the extract which will be found in the appendix, from a note by Raja Bahadur Kushalpal Singh, this is not what the depressed class leaders themselves ask for, and it is not likely to satisfy them. The Commission themselves admit that separate electorates are more likely to secure

the return of an adequate number of persons who enjoy the confidence of the depressed classes. That admission suggests the vital objection to their proposal, namely, that in the general non-Muslim constituencies the depressed class voters will be far outnumbered by the other voters and the members returned will be those who are supported by the majority of voters, as distinct from the depressed class voters. The Commission's proposal will not in fact give the depressed classes members who will be trusted by them to represent their special interests. The alternative is separate electorates. These no doubt have their own disadvantages, but if the initial difficulty of creating an electorate can be overcome, this Government consider that these classes should not, on a purely theoretical ground, be denied a privilege which has already been given to Muslims and Europeans and which it is proposed to give to Indian Christians and Anglo-Indians. The objection that such an electorate will involve stigmatizing each elector and will militate against his rise in the social scale is not one that is likely to weigh with those principally concerned, and if the representatives in the legislature must be stigmatized, and even the Commission's proposal involves this, there seems no reason why the voters should not be. It is at least arguable also that the position of these classes is more likely to be improved by securing real representation in the local legislature than by the ineffective form of representation suggested by the Commission. The real difficulty lies in forming an electorate. This Government are not at present prepared to say more on this point than that they propose to investigate the matter in the hope that they may be in a position to put concrete proposals for an electorate before the Franchise Committee.

Indian Christian representation.

25. The Indian Christian community is at present represented in this province by one nominated member. The Commission propose that representation should in future be by election, they prefer a system of reservation of seats to separate electorates and they recommend that the number of representatives be increased from one to two. The total number of Indian Christians in this province at the census of 1921 was 169,000. The number of electors, even with the extended franchise, will therefore be comparatively small. No figures are at present available showing the distribution of Indian Christians among the various districts of the province, but it can be said with confidence that it will not be possible in this province to make a satisfactory arrangement whereby two seats will be reserved for Indian Christians. If nomination is to be substituted by election, then it seems practically inevitable that a separate electorate should be established. This Government have no objection to the increase in the number of representatives from one to two.

University representation.

26. The Commission obviously are not convinced of the desirability of retaining university representation and have confined themselves to a halting expression of opinion that the existing university seats should be retained. There is some division of opinion on this subject among the Members of this Government. His Excellency the Governor and the two Members of the Executive Council see no advantage in retaining the one university seat in this province. University members do not represent any special interests and the university electors undoubtedly receive adequate representation through the general constituencies. His Excellency's Ministers feel some difficulty in agreeing to the withdrawal of a privilege at present enjoyed. They would therefore prefer to retain the existing seat. They would not, however, confine it to the Allahabad University, but would either have a joint electorate formed from the three provincial universities of Allahabad, Lucknow and Agra, or in the alternative they would allow each university to elect the member in turn.

Representation of labour.

27. Labour at present receives no special representation in this province. The Commission recommend that the duty of drawing up rules for securing labour representation should be imposed on the Governor and they would leave it to him to resort to nomination if he considers a system of election impossible. As regards the number of labour representatives, they content themselves with expressing the view that, if suitable members are available, the proportion of labour representation should be increased. The position in this province in regard to the representation of labour interests was fully explained in this Government's report to the Commission, and I am to say that this Government do not anticipate that a system of election will be possible. In the absence of any labour organizations which are capable of putting up a panel of candidates from whom selections could be made, this Government at present see no alternative to a system of nomination pure and simple, and they are prepared to accept the Commission's proposal which will probably result in the Governor nominating one or two labour representatives.

Representation of great landholders.

28. The great landholders of this province have special electorates which return six members to the legislative council. On the ground that their standing and reputation and the influence which they exert in their own localities have enabled them to share a large number of seats in the general constituencies and are therefore such as to render special protection unnecessary, the Commission

have, subject to a certain safeguard to secure them their present representation, recommended the withdrawal of their special representation. This Government are unable to endorse the Commission's recommendation. Though all the Members of Government hold the same views on the general principles involved, I am to refer the Government of India to the extracts E(i) and (ii), which will be found in the appendix, from notes by Nawab Sir Ahmad Sa'id Khan and His Excellency's Ministers. Government hold that the representation which the great landholders have been able to secure has not been disproportionate to their political importance in present conditions. It is almost inevitable that as the electorate gains political experience, it will tend to prefer representatives drawn from sources other than the great landed families, and the need for special representation is likely to increase rather than decrease. It is peculiarly unfortunate that the Commission have singled out this one class to be deprived of a privilege at present enjoyed, while at the same time recommending the grant of special representation on a wider scale for some classes of little political importance and the retention of the special representation of another class—university graduates—to which the arguments used in the case of the landholders apply with even greater force. This Government are unanimously and strongly in favour of the retention of the special representation of the great landholders at the existing ratio, and the Governor in Council desires to repeat the recommendation placed before the Commission, which was that the number of representatives be increased to twelve, seven to be elected by Agra landholders, four by the Oudh taluqdars and one by the Oudh landholders other than taluqdars, and that all these representatives except the last be elected by proportional representation on the system of the single transferable vote. His Excellency's Ministers would go further and give the landholders sixteen representatives, as recommended by the Indian Central Committee, but, differing in this from that Committee, would allot ten seats to be filled by the Agra Province Zamindars' Association, five to be filled by the British Indian Association, and one by Oudh landholders other than taluqdars. I am to add also that the Ministers consider that similar bodies of equal status in other provinces should also return their own representatives by separate electorates to both chambers of the provincial councils and also to the Federal Assembly and the Council of State.

Nominated members.

29. The Commission propose that, apart from a power to nominate members representative of certain special classes where election is impossible or fails to give a specified amount of representation, the Governor should have a discretionary power of nomination which should be used particularly to ensure more adequate representation of women and labour. They would fix the number of

members who may be nominated at between 5 and 10 per cent. of the total fixed seats. In a council of 250 this would give the Governor power to nominate between 12 and 25 members. Apart from officials the Governor in this province now has power to nominate only five members and of these three must be representatives of special interests. There are, in the opinion of the Governor in Council, obvious disadvantages in leaving the Governor so general a power as the Commission propose. However defensible such a power is under the existing constitution, it will clearly become more and more anomalous as the constitution approaches one of complete responsible government. His Excellency in Council is therefore in favour of retaining the power of nomination only to a very restricted extent and in order to secure the representation of definite interests. He sees no reason to grant any special power of nominating women as such. If this Government's proposals in regard to the representation of great landholders are accepted, then there will be no need for nomination in their case. This Government also hope that it will be possible to secure the representation of Anglo-Indians, Indian Christians and depressed classes by election. The only special interest which it will not be possible to get represented by election is that of labour, and this Government have already agreed above to the nomination of one or two labour members. The Commission have said nothing about the nomination of expert members. This Government consider that the Governor should have the power at present conferred by proviso (*b*) to sub-section (2) of section 72-A of the Government of India Act to nominate not more than two persons having special knowledge or experience of the subject matter of any Bill which is before the legislature. Such persons would not necessarily be officials but might, to take one example, in the case of a Bill to regulate religious and charitable endowments, be persons who have had actual experience of the management of such endowments. This Government would also allow the Governor to nominate one person (who would generally be an official) to act as legal adviser to the Government and to assist in dealing with the drafting of Bills during their progress through select committees and the like. The Governor in Council would therefore prefer to restrict the Governor's power of nomination to the following three purposes :—

(1) to secure representatives of labour interests,
(2) to secure the assistance of experts, and
(3) to secure the assistance of a legal adviser and draftsman.

His Excellency's Ministers would, however, have no objection to the Commission's proposal to give the Governor power to nominate members up to 5 or 10 per cent. of the total membership, on the understanding that he would not be restricted to use this power to secure the representation of any special interests such as those of women or labour.

Powers of legislation and finance.

30. The special powers of the Governor in relation to legislation and finance have been dealt with in paras. 15 to 17 above. This Government accept the remaining proposals in regard to legislation and finance contained in paras. 96 to 98 of the Report.

Chapter 3.—*The Franchise.*

31. After referring to the variety of views held in India in regard to the extension of the franchise and to the way in which the views held by various classes and communities are influenced by the manner in which each such class or community is likely to be affected by extension, the Commission have rejected adult franchise as impracticable at the present stage and have recommended that a Franchise Committee should be appointed with instructions to frame schemes which would enfranchise about 10 per cent. of the total population. They have further suggested that a special literary qualification should be introduced and also a special qualification for wives and widows of persons qualified for the franchise. Finally, as a complement to their proposal that the legislative council should be permitted to revise the franchise by constitutional resolutions, they have recommended that after an interval of fifteen years a second Franchise Committee should be appointed to review progress and, if 20 per cent. of the population have not by then been enfranchised, to devise means to accelerate progress. The views of this Government on each of these proposals are explained in the following paragraphs.

Proposals for extension.

32. The Commission base their proposed extension of the franchise on the following grounds :—

(1) That the existing franchise is too limited to provide the material from which to build an adequate scheme of representative government.

(2) That many of those who are at present below the line of qualification are as fit to exercise the vote as those who are above it, and, even if they do not ask for it, the vote must be regarded as an instrument of political education and as a source of political influence.

In this section of their Report the Commission have not referred to the size of constituencies. But they have done so in paras. 205 and 206 of volume I, and it would appear that one of the reasons which influenced them in proposing so large an extension of the franchise was that such an extension would render possible a reduction of the size of constituencies and a closer touch between members of the legislature and the voters who return them. Their ideas on this point are the outcome of their own experience derived

from a country which is predominantly industrial. It may be questioned whether they apply with the same force to a country which is predominantly agricultural and in which 90 per cent. of the people live in an immense number of villages scattered over the country-side. For practical purposes it can make little difference in the relations between the member and his electors whether the constituency contains 2,000 villages or 1,000, and any reduction in the size of constituencies that is within the bounds of possibility is not going to make any real difference from this point of view, nor give either the member or voter a more accurate appreciation of the true meaning of representation. While therefore this Government are not opposed to some extension of the franchise in the hope that the vote may in time prove to be an instrument of political education and a source of political influence, they see no adequate reason for so large an immediate extension as that proposed by the Commission. This Government stated to the Commission that the great majority of the electorate in this province are not only illiterate but also ignorant of and without interest in the affairs of the province as a whole. They do not, however, deny that there is some force in the argument that many of those who are at present without the vote are as fit to exercise it as the majority of existing voters. It is therefore not unreasonable to extend the franchise to a considerable extent, but care must be taken not to make it so large as to place an undue strain on the polling machinery. This Government have not immediately available all the information which they would like to possess before expressing a considered opinion in regard to the extent to which the franchise can be widened, and for that reason they desire to confine themselves to a provisional expression of opinion on this point. According to figures collected in 1920 the lowering of the principal rural qualifications to a payment of not less than Rs.25 rent in the case of tenants and not less than Rs.10 land revenue in the case of landholders will add about 1¼ million to the rural electorate and thus double the number of persons enfranchised by virtue of rent or revenue paying qualifications. This Government are not at present disposed to recommend any larger extension than this. But they would agree to the lowering of the other rural qualifications and also of the urban qualifications, where this can suitably be done, to such a degree as to qualify roughly double the present number of electors. It may be objected that the increase thus proposed is only 100 per cent. instead of the 200 per cent. recommended by the Commission. The reply to that objection is, firstly, that, as already stated, the argument that smaller constituencies will bring member and voter into close touch does not apply to Indian conditions with the same force as it does to English conditions; secondly, that the franchise necessary to secure this Government's 100 per cent. increase will be approximately the same as that required for the Commission's higher increase with the exception of the special

women's qualification which this Government for reasons given below are not prepared to accept; and, thirdly, that it would be unwise to lower the qualifications still further at the present stage.

Literary qualification.

33. This Government are divided in their views on the proposed literary qualification. His Excellency the Governor and the Members of the Executive Council are opposed to this innovation. His Excellency's Ministers accept the principle of the Commission's proposal, but two of them would prefer that the actual qualification should be somewhat different. Hitherto the main principle of the franchise has been based on some property qualification, and until it is shown that it is impossible to retain that principle and at the same time widen the franchise to the extent desirable, the Governor in Council would prefer to have no purely literary qualification. The Commission suggest two reasons in support of their proposal, namely, that it would bring in voters of better education, and that it would provide for an increase in the number of electors in proportion to the spread of education. In reply to these reasons it can be argued that the test proposed is so low that it will not bring in really educated men and that the majority of men who are educated have, and in future may be expected to continue to have, a property qualification of some kind or other. It is, however, true that the present qualifications disenfranchise many members of joint Hindu families, and for this, as well as for general reasons, the Ministers would like to see a literary qualification introduced. Nawab Muhammad Yusuf and Maharaj Kumar Mahijit Singh would extend the franchise to those who have passed the matriculation or other equivalent examination or a recognized proficiency examination in a vernacular or classical language. Raja Bahadur Kushalpal Singh would accept the qualification proposed by the Commission.

Special qualification for women.

34. The Commission have expressed considerable concern at the small number of women who are enfranchised and a desire to see a substantial increase in the present ratio of women to men voters. In order to effect this they have suggested that it may be found possible to add to the present qualifications two others, namely, (i) being the wife, over 25 years of age, of a man who has a property qualification to vote and (ii) being a widow over that age whose husband at the time of his death was so qualified. In addition they would apply their proposed educational qualification to women over 21 years of age as well as to men. These proposals are of a far-reaching nature and must be considered in relation to existing facts. In this province the great majority of the voters are ignorant and illiterate villagers. Whatever can be said of their competency as voters it can hardly be questioned that the wives of most

of them are even more ignorant and illiterate and that many of those who are of a better status would be prevented by social customs from exercising the vote. The practical result of the proposal would indeed be to give to the low cast Hindu voter, whose wife is able to go to the poll, a second vote and thus give him twice the voting power of many of the higher caste Hindus and also of many of the Muslims. In the opinion of this Government the means of extending the women's franchise can best be left to be dealt with by the people themselves under the powers which it is proposed to grant to the new legislative councils.

Election expenses.

35. The Commission recommend that suitable limits should be defined and enforced for election outlay. The existing electoral rules for this province require every candidate to make a return of his election expenses under certain specified heads, but they lay down no limits and it is well known that these returns afford no true indication of the actual expenditure incurred by candidates. The Commission consider that the absence of limits gives an unfair advantage to candidates who can afford to spend freely and is an obvious encouragement to corruption. It is notorious that some candidates have spent very large sums on elections and that much of such expenditure has been of a nature which might be described as illegal. As regards legitimate expenditure the position is that there is undoubtedly room for a considerable increase in expenditure on such matters as election literature, meetings, canvassing, etc., and Government have not at present sufficient material on which to base proposals for the imposition of limits. This Government, therefore, consider that further experience should be awaited before any attempt is made to impose such limits.

Chapter 4.—Second Chambers.

36. The Commission were not able to agree on the subject of second chambers in the provinces. Three provincial Governments have approved and five opposed the establishment of such chambers. The Indian Central Committee, while opposing the introduction of second chambers generally, have recommended the creation of such a chamber in this province tentatively for a period of ten years. The United Provinces Provincial Committee unanimously recommended the creation of a second chamber in this province. The question is therefore one on which there is considerable difference of opinion. The Members of this Government are however unanimously in favour of the establishment of a second chamber in this province. Nawab Sir Ahmad Sa'id Khan and His Excellency's Ministers have recorded separate notes in favour of the proposal

from which extracts will be found in the appendix. The following are the grounds on which the proposal can be justified :—

(1) The natural development of the provincial constitution will result in an increasing restriction of the special powers of the Governor until these powers ultimately disappear. So long as these powers remain there may not be a complete case for the establishment of a second chamber, but with the gradual disappearance of these powers the case will become increasingly strong. It is clearly undesirable to wait until the Governor's powers have completely disappeared before creating such a chamber, as the result of this would be that minority communities might be deprived of the protection of the Governor before being given any other form of protection. Furthermore, the whole principle of the new constitution, as proposed by the Commission, is that its future development should be natural and gradual and not by well-defined stages. There is thus no future revision of the constitution in contemplation at which the introduction of a second chamber might be further considered. It is therefore desirable that such a chamber should be created now when the constitution is under revision.

(2) A second chamber may in certain circumstances obviate the use of the Governor's special powers. In so far as it does so, the extent of the autonomy enjoyed by the province will be increased and the position of the Governor will at the same time be strengthened. The more the Governor is able to keep himself outside of the government machine and the more he can avoid intervention the stronger will his constitutional position become and the more effective his intervention when the need for it arises.

(3) A wide extension of the franchise is likely to cause a very natural apprehension among those who have a large stake in the affairs of the province and with whom in the past has lain the predominant share of political power. These classes fear that they will not be able to obtain adequate representation in future conditions. It is important for the welfare of the province that the legitimate interests of these classes should be protected and that they should have a feeling of security and of confidence in the administration. The establishment of a second chamber may not achieve all that they expect of it, but it will, in the opinion of this Government, be a stabilizing influence and assist in securing general confidence in the new constitution.

Another point which, if not exactly a reason for introducing a second chamber, is an important practical consideration is that there are in this province classes from which such a chamber can suitably be constituted. The exact constitution of the chamber must be left for future consideration, but the provisional view of this Government is that the chamber should have a total membership

not exceeding 50 and should contain a majority of elected members who should be directly elected on a high franchise. The same communal proportions would be applied to the upper as to the lower chamber. In the opinion of the Governor in Council there should be no representation of special interests, for example, great landholders or commercial bodies, in the second chamber but His Excellency's Ministers would give special representation to great landholders. No official element will be possible as it would obviously be impracticable to allow officials freedom of vote, and if the upper chamber is to exercise a moderating influence, the presence of officials voting in accordance with the views of Ministers would not help to achieve this object. The relations between the two Houses should be those at present existing between the two Houses of the Indian legislature. It will be desirable that the upper House should be represented in the Ministry and this Government hope that if such a House is created the Governor will always find it possible to secure to it some representation in the Ministry, though they do not consider that it would be possible to make any statutory provision to this end.

Expert revising body.

37. This Government would like to have had before them a fuller exposition of the exact composition and functions of the small expert body which the Commission suggest should be created " to report on the final drafting of measures and to call attention to any points of conflict with existing legislative or administrative arrangements." They agree that there is much room for improvement in the drafting of provincial legislation and also that there is need for the better understanding of the exact implications of legislation by the members of the legislature. But they are of opinion that what is really required to secure better drafting is that the provincial Government should have a trained draftsman who would not only make the initial drafts of Bills but would also be a member of the legislature and thus available to follow every stage of the Bill in its progress through the legislature. To secure the second object which the Commission appear to have had in mind expert knowledge of administration rather than of drafting would seem to be required, and the presence of experts on select committees, suggested by the Commission in para. 86, might be made use of to bring out the real effect of proposed legislation and the administrative considerations involved by its passage.

Part IV.

Chapter 1.—*The Central Legislature.*

38. No part of the Commission's scheme involves a more radical departure from existing arrangements than their proposals for the constitution of the Lower House of the Central Legislature. Put

briefly, these proposals are that that House should be called the Federal Assembly, should have a fixed life of five years, and should be composed of from 250 to 280 members as follows :—

(1) the members of the Governor-General's Executive Council *ex officio*,

(2) not more than twelve other official members nominated by the Governor-General,

(3) members elected on a system of proportional representation by the legislative councils of Governors' provinces, each council electing approximately one member for every million inhabitants of the province,

(4) eight members elected or nominated to represent minor provinces, and

(5) eleven members nominated by the Governor-General to represent backward tracts, and possibly two to represent Anglo-Indians.

This Government agree with the proposals that the Assembly should have a fixed life of five years and that the representation of each province should be determined on the basis of population. In regard to other points in the scheme proposed by the Commission there is some difference of opinion. Nawab Sir Ahmad Sa'id Khan and His Excellency's Ministers approve of the increase in the membership of the Assembly to 250 or thereabouts. But His Excellency Sir Malcolm Hailey and Sir George Lambert are unable to find in an Assembly of the size suggested, with an official representation amounting to twelve nominated official members, any promise of that stable Central Government which the Commission predicated (Report, para. 178) nor any recognition of the fact that " it is on the strength of the central administration that the peace and safety of India ultimately depend " (para. 29). The picture which they see is that of an executive which must inevitably be in a position of pathetic impotence within the legislature, and a legislature which is bound to be in perpetual quest of means to reduce and, if possible, to nullify the authority of the executive. So far from gaining in strength or stability by the change proposed, the central administration will occupy a position inferior to the markedly unfavourable situation in which it stands at present. It may be that the Commission felt the difficulty of giving it the position which on their own showing it ought to occupy, but the reasons advanced for advocating a change which must involve a worsening of that position are entirely unconvincing. When we are told that it is desirable to provide at least one member for each million inhabitants, the reply can only be that this number itself is already in the region of the astronomical, and there is no greater reality of representation if the figure is fixed at one million than if it is fixed at two million. The Commission are once again obsessed by the fallacies of an analogy drawn from a compact area closely inhabitated by a people largely of an urban and industrial character. In regard to the system of election this Government are also unable

to make a joint recommendation. His Excellency Sir Malcolm Hailey adheres to the view taken by him as a member of the Franchise Committee, now strengthened by ten years' experience of the existing system both as a Member of the Government of India and as the Governor of two separate provinces, that election should, as proposed by the Commission and for the reason given by them, be indirect. Under the existing system of direct election the members of the Assembly may have illustrated types of Indian opinion, but they have not reflected the views held by majority parties in the provincial legislatures. In a federal constitution it is imperative that the provincial representatives should be made to realize that they sit in the Federal Assembly solely to represent the interests of their provinces and there is much more hope of this end being achieved by indirect rather than by direct election. Sir George Lambert shares this view. Nawab Sir Ahmad Sa'id Khan has no personal objection to indirect election, but feels that it is strongly opposed to Indian sentiment. The views of his Excellency's Ministers are explained in extract G in the appendix. They would prefer a system of direct election; but they recognize the force of the Commission's arguments against such a system in a federal constitution and, if a system of indirect election is considered inevitable, they would like to give it a broader basis than the Commission propose.

39. If the system of direct election is retained, the existing system of communal representation must also be retained. If a system of indirect election is introduced then proportional representation becomes a possible alternative to the communal system. The argument advanced in favour of proportional representation is that it is likely to secure to the principal minority communities an adequate share of representation without placing an open emphasis on religious or racial differences. All the provincial representatives will be answerable to the same constituents, and they may thus be expected to have a feeling of unity which communal representation cannot give. Those who are opposed to the system argue that it is uncertain in its results and that it will not really mitigate religious and racial animosities, since each group in the provincial legislature will necessarily give their first votes for their own men. There is a real fear among Muslims that the system will not secure to them what they consider to be their due share of representation. A further disadvantage of the system is the difficulty of filling up casual vacancies. Nomination by the Governor is not a method which this Government could accept and it would be difficult to devise any system of election which would not be open to objection on one ground or other. This Government are therefore inclined to the view that the advantages of the system are not sufficient to outweigh its disadvantages and that on the whole it is preferable to retain the existing well-tried system of communal representation.

40. There are two further matters on which this Government disagree with the Commission's proposals. The first is the suggestion that it will be possible for an individual to retain membership of both the Federal Assembly and the provincial council. If the two bodies always met at different times there would be no objection to such dual membership. But it has been customary for the Legislative Assembly and most of the provincial councils to hold their most important session about the same time, namely, in February and March. As that is the most suitable time for the introduction and discussion of the budget, it seems likely that the central and provincial legislatures will continue to meet during these months. In these circumstances it will not be possible for any individual to discharge in a satisfactory manner the duties of membership of both the Assembly and a provincial council, and this Government consider that any individual elected to both bodies should be required to resign from one or the other. The second matter is the proposal that the allowances of provincial representatives in the Federal Assembly should be a charge on provincial revenues. This Goverment are not aware of any justification for this proposal. The Federal Assembly will be a central body, the Governor General will regulate its sessions and the Government of India should bear all expenses connected with them.

The Council of State.

41. Though they consider that the Council of State will in theory be something of an anomaly in the constitution which they have proposed, the Commission recommend its retention on practical grounds. They would also retain the present number of members (60) and the present proportions of elected to non-elected members (33 to 27). They would extend the life of the Council to seven years and for the present system of direct election would substitute an indirect one. They make only very tentative suggestion as to the exact composition of the Council and the qualifications for membership. This Government agree that the Council should be retained with a membership of about the present number and also that its period of life should be extended to seven years. They disagree with the Commission in regard to the method of election. They do not consider that in the case of the Council of State there are the same reasons for indirect election as there are in the case of the Assembly, and even though they are in favour of a second chamber in this province they would prefer a system of direct election to the Council of State to one of indirect election by the members of the provincial second chamber. Although the constituencies must, as at present, be large in area, the electorate will be small and it will not be difficult for members to keep in touch with their electors. Direct election to the Council of State has not been unsuccessful and there are not

sufficient reasons for making a change. But this Government would extend the franchise by including all persons paying not less than Rs.3,000 (instead of Rs.5,000) land revenue as at present. The Ministers would also like to see the large landholders in this and other provinces given special representation.

Powers of the legislature.

42. The Commission do not recommend any immediate change in the legislative powers of the central legislature, though they contemplate that as the constitution develops there will be a gradual change in the range of its duties. This Government agree generally with the view taken by the Commission, but desire to make some suggestions in regard to the treatment of measures affecting social and religious usages. The first suggestion is designed to give to provinces a somewhat larger measure of autonomy in regard to such legislation. The Commission anticipate that legislation which affects British India only—and measures affecting religious and social usages will fall within this category—will tend to be left more and more to the provincial legislatures, but they also suggest that a more extended use should be made of enabling Statutes which would be passed by the central legislature and be subject to adoption by provincial legislatures. This Government hope that the Commission's anticipations will prove correct, but they themselves would like to suggest that provincial legislatures should be given a larger measure of control over legislation affecting religious and social usages by being given the power of requiring by resolution that any such legislation under consideration in the Federal Assembly shall be purely enabling so far as individual provinces are concerned. This would give the provincial legislature power to prevent a Statute which it considered unsuitable to the conditions of its own province from being applied to that province. Provision would have to be made for securing that such a resolution would have effect only in cases in which the proposed legislation actually affected religious and social usages, and the most convenient method would be the grant of a statutory power to the Governor General to make a declaration to this effect. It would be of further advantage from the provincial point of view if enabling Statutes could be so drawn as to permit a local legislature to adopt them with such modifications as might be required to suit the particular conditions of its own province.

43. The Commission have been unable to devise any statutory protection for minorities against discriminatory legislation and have come to the conclusion that the only practical means of providing safeguards is to retain an impartial power in the hands of the Governor General and Governor and to give these authorities a specific mandate to use that power in all proper cases. This Government have sought for a more satisfactory conclusion but

without success. They have a strong preference for some statutory provision which would make it possible for the representatives of any main community by a two-thirds majority to prevent the passage of legislation detrimentally affecting the community. But they appreciate the difficulty of making any such provision, and if this difficulty is found to be insuperable then they agree that the only alternative is to leave the safeguards in the hands of the Governor General and Governors. In that case the safeguards would in their opinion be made more effective if—

(1) the terms of section 67(2)(*b*) of the Government of India Act could be widened so as to include social as well as purely religious usages.

(2) a provision similar to section 67(2)(*b*) could be introduced requiring the previous sanction of the Governor in the case of legislation in Governors' provinces, and

(3) the Governor General or a Governor should, when approached by any community to do so, be required to give a formal decision whether any Bill does, or does not, affect the religion or religious or social usages of the community and to pronounce his decision under the power held by him by virtue of (2) above. The Governor General, or the Governor, should be authorized to require that, as evidence of the desire of the community for a decision on this question, the memorial should be signed by two-thirds of its representatives in the central or provincial legislature or to prescribe any other test which he considered suitable.

44. The powers of the central legislature in relation to provincial finance are dealt with in a later part of this letter. This Government desire to say nothing on the Commission's proposals relating to the other financial powers of the central legislature.

Chapter 2.—The Governor General in Council.

45. The Government of India have not asked this Government for any expression of opinion in regard to the constitution of the Central Executive; and the members of Government do not therefore state their views on this question. I am, however, to invite a reference in this connection to the request put forward in para, 2 of this letter.

Chapter 4.—Relations between Centre and Provinces.

46. The question of financial relations between the centre and the provinces will be considered in the later section of this letter dealing with Part VIII of the Report. In this section I am to deal only with proposals in regard to the control over Governors in the exercise of their special powers and the control over provincial Governments in respect of those matters in which a

provincial Government is held by Statute to be subject to superintendence and direction by the Central Government. This Government agree with the Commission that there must be some authority empowered to control Governors in the exercise of their special powers. The Governor will exercise these powers as the agent of Parliament, and so long as the Governor General in Council is also the agent of Parliament, it might perhaps be held that in theory there would be no constitutional impropriety in the control being vested in the Governor General in Council. But there are practical objections to this arrangement and the Commission have preferred to take the long view and to anticipate a change in the position of the Governor General in Council by vesting this power in the Governor General, who not only is, but must always remain, subject to the control of Parliament through the Secretary of State. This Government accept the Commission's proposal.

47. Under the existing constitution, while the Government of India and the Secretary of State have an unfettered power of control over the administration of reserved provincial subjects, their power in regard to transferred subjects is strictly defined and limited by rule. Under the Relaxation of Control Rules the power of the Secretary of State and the Secretary of State in Council is limited to five purposes, namely,—

(i) safeguarding the administration of central subjects;

(ii) deciding disputes between two provinces;

(iii) safeguarding Imperial interests;

(iv) determining the position of the Government of India on questions arising between India and other parts of the Empire; and

(v) safeguarding the due exercise and performance of certain powers vested in the Secretary of State in Council by Statute or Statutory rules.

Under Devolution Rule 49 the power of control of the Governor-General in Council is limited to the first, second and fifth of these purposes. In addition, however, the Government of India have under sub-section (1) of section 45 of the Government of India Act and Devolution Rule 5 a right to require from local Governments information on the administration of any provincial subject, and under the Local Government (Borrowing) Rules the power to control the issue of loans by provincial Governments. The proposal of the Commission is that the Governor General in Council should have as wide a power of control as the Secretary of State, though he would, of course, exercise it subject to the Secretary of State's control, and that that power should extend to the purposes nos. (i), (iii), (iv) and (v) above for which the Secretary of State can at present exercise his power, the supply of information, the raising of loans, and in addition the following two purposes, one of which is an extension of an existing purpose and the second is new—(*a*) regulating matters which may, in the opinion of the

Governor-General, essentially affect the interests of any other part of India and (*b*) implementing international obligations. Subject to the limitations explained below this Government accept the Commission's proposals, though they would suggest that there will be some advantage if in drafting the Statute the number of separate categories is reduced as far as possible.

(i) At present the Government of India can exercise control over a provincial Government in relation to a transferred subject in order to decide questions arising between two provinces in cases where the provinces concerned are unable to agree. The Commission have explained at some length why they do not consider that that rule goes far enough. It does not give the Central Government any power to secure co-operation between the provinces in matters which are of vital concern to more than one part of India. Furthermore, it has been authoritatively held that under the existing rules it is not permissible to incur expenditure from central revenues on any provincial subject, except in so far as the expenditure represents payment for services rendered. That there is scope for co-operation, specially in such matters as Public health and Medical administration, admits of no reasonable doubt. But the method of securing co-operation is not free from difficulty. There is strong objection to the extension of the power of control by the Government of India in regard to the transferred subjects. There is a natural desire that the provinces should be as free as possible from central control. This Government, being satisfied that some further power of control is likely to be in the best interests of the province and realizing that over the whole field of administration the controlling power of the Central Government is being greatly reduced, are prepared to accept the principle of the Commission's proposal, subject to the understanding that the Government of India will be restricted to use their powers principally for the purpose of collecting information, giving advice, and settling a common policy, and not for the purpose of interfering in the actual details of administration in any province. In particular the Government of India should not use the system of grants-in-aid to secure control in provincial matters. The action taken in regard to the distribution of the proceeds of the petrol tax may perhaps reflect the desire of the Legislative Assembly rather than that of the Government of India to utilize the system of grants to effect control, but it has already created some apprehensions in provincial quarters. There are also indications of the same tendency in the proceedings of the Central Board of Agriculture.

(ii) It should be made clear that the Government of India's powers in relation to the all-India services should be restricted to control over the strength of the cadre to be employed in a province, and should not extend to such matters as transfers, promotions, etc., though there would be a right of appeal to the Government of India in certain service matters prescribed by statutory rule.

48. The Commission have proposed an important alteration in the present classification of central and provincial subjects so as to secure to the Central Government some control over the organization of the Criminal Intelligence Department in the provinces. As this Government understand the proposal the provincial Government would continue to control and pay for the C.I.D. but the Central Government would have the power to require it to maintain an organization which would fit into and co-operate with the Central Intelligence Department. His Excellency the Governor and Sir George Lambert agree that the Government of India should have some control, but they feel some hesitation on the subject since they anticipate that if it is expressed in the terms suggested by the Commission a provincial Government would, if it so desired, have little difficulty in rendering it nugatory. The other members of Government take the view that the C.I.D. is so essential a part of the machinery of Government that no Ministry will wish to reduce its efficiency and therefore no central power of control is required.

PART VIII.

Finance.

49. The Commission have observed (para. 158) that many of the suggestions contained in Sir Walter Layton's report go somewhat beyond the range of their constitutional inquiry. They have therefore confined themselves to an expression of opinion on the more strictly constitutional features of the proposals, and have withheld any opinion on such matters as the estimates of future revenue and the suggestions for fresh taxation. This Government may be expected to go somewhat further than the Commission in this matter, as they are concerned not only with the general suitability of the proposals from a constitutional point of view but also with their practical effect on the finances of this province during the next stage of constitutional development. For this reason I am to deal first with the constitutional aspect of Sir Walter Layton's scheme and thereafter with its practical application to the province.

50. The basis of the proposals can be summed up in the following propositions :—

(i) there is no prospect of existing provincial revenues expanding sufficiently to meet necessary expenditure within the next ten years;

(ii) the Central Government possess all the expanding sources of revenue and central expenditure should be capable of gradual reduction so as to leave a substantial surplus which will be available for meeting provincial needs;

(iii) the surplus so obtained will not be sufficient to meet all provincial needs and must be supplemented by new taxation which should be uniform all over India and centrally collected,

but the responsibility of imposing which must rest on the representatives of the provincial legislatures; and

(iv) the distribution of the revenues to the provinces should be made partly on the basis of origin and partly on that of population.

This Government are prepared to give general acceptance to the first and the last two of these propositions. They are fully satisfied that the existing revenues of this province are not capable of sufficient expansion to meet necessary expenditure within the next ten years. They see little possibility of raising any substantial amount of fresh taxation on a provincial basis and they welcome the suggestion of central taxation and agree that the distribution of its proceeds partly according to origin and partly according to population will be as fair a method of distribution as can be devised. They particularly desire to emphasize the point that the method of distribution must rest on some such automatic basis as is afforded by figures of population; they are entirely averse from any method of distribution based on presumed needs or on standards of expenditure previously adopted in regulating provincial expenditure. While they agree with Sir Walter Layton that the Government of India possess the expanding sources of revenue, this Government can naturally express no opinion on the ability of that Government so to reduce expenditure as to leave a substantial amount available for transfer to the provinces.

51. The proposed method of allocating the Government of India's surplus gives rise to no difficulty. One half of income-tax on personal incomes will be credited to the province in which it is collected and the proceeds of the salt tax will be credited to provinces on the basis of population. The introduction of this arrangement will be more difficult. This Government realize that the Government of India are not likely to be in a position to surrender a large amount of revenue immediately on the introduction of the Reforms and that the transfer will have to be gradual. All that they would ask for is that as much as possible should be given to the provinces as soon as possible and that as accurate an estimate as possible should be provided as to the amount that the provinces will get each year so that they may know where they stand and be able to budget accordingly.

52. The supplementary method of increasing provincial resources is more complicated. The proposal is that new taxation should be imposed and collected centrally and should be distributed on a basis of origin or population according to the nature of the tax. We are not here concerned with the nature of the proposed taxation—that will be considered later—but only with the machinery for its imposition. The proposal made by Sir Walter Layton and endorsed by the Commission is that a Provincial Fund should be instituted which will be fed by the proceeds of the new taxes. These new taxes will be voted by a Federal Assembly representing

provincial units and sitting in special session and they will be collected centrally. A demand for such new taxation will be laid before the Federal Assembly in the form of a Bill by the Finance Member of the Government of India after the Finance Ministers of at least three provinces have at an inter-provincial conference asked for the taxation. The Finance Member of the Government of India, although responsible for introducing the necessary legislation, will not be bound to support it and may even oppose it. The Finance Ministers of the provinces will have the right to speak in the Assembly either in support of or in opposition to the Bill. The Federal Assembly's vote in a special session will then be decisive. These proposals may perhaps be open to criticism on theoretical grounds. An accepted principle of taxation is that no government should take from the tax-payer more money than it actually requires for public purposes. Under this scheme, however, if a single province happens to require additional funds and can induce, say, the Finance Ministers of two other provinces to support it in the inter-provincial conference and a majority of members to support it in the Federal Assembly, then a tax will be imposed on the whole of British India. The force of this objection is no doubt weakened by the practical consideration that, during the next ten years at least, there will be few, if any, provinces that will not require all the additional funds that they can secure. The procedure in the Federal Assembly is also open to criticism. The spectacle of the Finance Minister of one province opposing in open assembly a tax desired by the Finance Minister of another province would not be altogether edifying, particularly if the Ministers concerned belonged to different parties. The party in power in one province might well be in opposition in another and the effect of a decision in the Federal Assembly going against the party in power in a province would obviously have the unfortunate effect of strengthening the Opposition in that province. A further objection, and this time of a practical nature, is that it will be very difficult, if not impossible, to avoid the disclosure of new taxation imposed by this procedure long before the time when the necessary legislation is actually introduced in the legislature. While pointing out these objections, this Government do not suggest that they are decisive. They believe that in practice the need of all provinces for additional resources will be so keenly felt for some time to come that there is no possibility of taxation being imposed in excess of the needs of any province. At the same time the objections to the scheme would be lessened if an absolute majority of Ministers in the inter-provincial conference was required before legislation for the imposition of any new tax was placed before the Federal Assembly. This would have the advantage of precluding any effective opposition in the Assembly, though it may be urged against it that it would make it harder for any individual province to obtain additional funds.

53. I am now to make some observations on the practical application of the Layton scheme. It will be admitted that its author has taken an unduly optimistic view not only of the probable surplus in central revenues but also of the possibility of new taxation. The surplus will depend on a number of uncertain factors of which trade conditions, foreign relations and the internal political situation are all of first importance. All that can be said with any certainty is that given favourable conditions, a moderate expansion of the proceeds of existing taxation can be relied on, and that, if the Government of India can secure some reduction of expenditure, there will be a certain surplus for allocation to the provinces. It is possible to be somewhat more definite in regard to some of the proposed new taxes, particularly the tax on agricultural incomes and the terminal tax. Nawab Sir Ahmad Sa'id Khan in his separate note (extract I in the appendix) has given expression to the very strong feeling among the land-holding class in this province against the proposal to tax agricultural incomes. Landholders already feel with justice that the burden which falls on them in the shape of land revenue (and it is impossible nowadays to persuade those affected to regard this otherwise than as a tax) is out of proportion to that which is borne by the commercial and industrial tax-payers. It is not necessary to recite here all the arguments against the tax; it is enough to say that the proposal is one that is full of difficulties and this Government would not be prepared to support it; they in any case consider that this form of taxation should certainly not be imposed on this province by the Government of India on the vote of the central legislature. It is eminently a form of taxation which should only be imposed by a responsible government on the vote of the provincial legislature. The terminal tax is objectionable on other grounds and this Government regard it as wholly impracticable. Such a tax is at present a source of municipal revenue to many towns in this province and is much more suitable as a municipal than as a provincial tax. This Government see no serious objection to Sir Walter Layton's other proposals for new taxation. They are not in a position at present to give any estimate of the extent to which the proposals taken as a whole are likely in practice to benefit the revenues of this province. The preparation of such an estimate will require information which is not in the possession of this Government. I am, however, to remind the Government of India that the lack of sufficient resources has been a very serious handicap to practically all provincial Governments since the introduction of the first stage of the Reforms in 1921, and to say that this Government endorse the Commission's observation that it is vital to the success of the next stage in the development of Indian self-government that the provinces should command adequate resources.

Borrowing.

54. Sir Walter Layton's proposals can be summarized as follows. Provincial loans must be subject to standard regulations. The

raising of such loans must be co-ordinated. For this purpose a provincial loan council consisting of the Finance Member of the Government of India and the Finance Members of the provinces should be constituted. This council would establish a borrowing programme, prescribe standard regulations and generally be responsible for advising on all matters relating to the service of debt. At first this council would be purely advisory, though Sir Walter Layton contemplates that it would ultimately become an independent body with full powers. The Commission deal with these proposals in para. 189 of their Report, but it is not clear to what extent they endorse them. They make no mention of the provincial loan council and merely state that " certain corrective powers should reside in the Central Government through a right to control borrowings by the provincial Governments," while they add that " the Central Government should be in a position either to refuse a loan required by a province to meet a deficit or if need be to impose discriminatory rates of interest in respect of any such loans as it grants." The construction which this Government put on the Commission's observations is that they propose to maintain the present arrangement and either do not approve of the proposed council or else regard it as a purely advisory body with no constitutional powers beyond advice. If that construction is correct, then this Government prefer the proposal of the Commission to that of Sir Walter Layton. They recognize the need for an authority to control and co-ordinate provincial borrowings, but they would prefer that that authority should be the Government of India, as at present, rather than a loan council constituted as proposed by Sir Walter Layton. If such a council were created then the borrowing proposals of any single province would be judged by a body composed of its own rivals in the money market. In theory this body would be purely advisory, but in practice the Government of India would find it very difficult, if not impossible, to reject its advice. The result might well be that the council might so use its power as to prejudice the interest of those provinces which possess no local money market of their own. It is again inadvisable that loan programmes should be discussed in circumstances which make secrecy difficult, if not impossible. There must be a controlling and co-ordinating authority, but that authority should be independent of all provinces and not a body composed of persons who have, either directly or indirectly, an interest in the proposals which come before it. Such a body ought also to have not merely advisory but real powers, since the only other authority whose voice could be decisive in the matters dealt with by the council, namely, the Government of India, is itself a potential competitor with the provinces. It is probably impossible at the present stage of political development to constitute such a body, and in all the circumstances this Government would be quite content to leave the Government of India the power of controlling provincial borrowings to the extent described by the Commission in para. 189.

Provincial balances.

55. This Government agree with Sir Walter Layton's proposal that the present arrangements in regard to provincial balances should be maintained. Sir Walter has further suggested that the Government of India should perform banking services for the provinces on a commercial basis and should not attempt to make undue profits out of the business for the benefit of the central budget. This Government readily endorse this suggestion and express the hope that if the proposal is finally accepted they will be consulted in regard to the services rendered to the Government of India at treasuries and sub-treasuries and in regard to the other details which will have to be taken into consideration in evaluating the gain which accrues to the Government of India from the provincial balances.

PART IX.

The future of the Services.

56. There are at present four purely civil services in this province which are still recruited on an all-India basis, namely, the Indian Civil, the Indian Police and the Indian Forest Services and the Indian Service of Engineers (Irrigation Branch). The first question for consideration is whether any of these services should continue to be recruited as an all-India service. The Commission have made no final recommendation in regard to the two latter services, but have recommended that recruitment for the Indian Civil and Indian Police Services should continue to be made by the Secretary of State. The three reasons given for this decision are (1) that this is the only means by which the best class of recruits will be obtained, (2) that the ultimate responsibility for the preservation of peace and order is to rest with the Governor, and (3) that the retention of these all-India services will facilitate the staffing of central posts. This Government agree with the Commission's recommendation. In their opinion all considerations point to the continued need for the recruitment of Europeans to these two services and the necessity of getting the best Europeans available. They agree with the Commission that the present proportions of European and Indian recruitment should be retained in each of these two services. In the case of the Indian Civil Service one half and in that of the Indian Police Service over three-fifths of the total direct recruitment is still European, and it is advisable that this recruitment for both services should be made by the authority that can be relied on to get the best class of European recruit. That authority is undoubtedly the Secretary of State, who is in close touch with the sources of supply. This Government therefore approve of the retention of the two services on an all-India basis and of the continuance of recruitment by the Secretary of State. I am, however, to say that Nawab Sir Ahmad Sa'id Khan (see extract K in the appendix) would prefer

that while the all-India nature of the services is retained recruitment should be placed in the hands of the Government of India. He is not convinced that that Government will not be able to attract the present class of European recruit and he feels that it will be in keeping with other constitutional developments to transfer recruitment from an authority in England to an authority in India. His reasons for not going further and recommending the provincialization of both services are that he is advised that it will be difficult to obtain European recruits of a suitable class for a provincial service and that he considers that the retention of the cadre on an all-India basis will facilitate the staffing of posts under the Central Government. I am also to add that this Government contemplate that the strength of these two security services will come under review from time to time as the constitutional situation develops; their present recommendation does not involve the assumption that it will be necessary to retain either service permanently. Furthermore, they assume that the provincial Governments will retain their present powers in regard to the posting, promotion, etc., of officers of these services and that the powers of the Government of India will, in addition to appellate powers, be confined to determining the number of officers of the services to be employed in a particular province at any time.

57. The position of the Forest and Irrigation Services differs from that of the two security services. This Government agree with the Commission that some advantage would be derived by retaining these services as all-India services, but they do not consider that the advantage is sufficient in this case to outweigh the objections which will be felt on constitutional grounds. The main question of forest administration in the future will be the preservation of the forests. That is mainly a question of policy which will be determined by the provincial Government, and no service, however constituted, will be able to conserve the very valuable property which this province possesses in its forests except in pursuance of a definite policy of the local Government. On the other hand, there is no reason to suppose that given a wise policy of forest conservation a provincialized service will not be able to carry it out with a reasonable degree of efficiency. Irrigation affects the interests of the people more intimately and has more affinity to a security service. There is perhaps no department of Government in which a high standard of efficiency and impartiality is of greater importance to a vast number of the rural population. The existence of a European element in the department is undoubtedly a source of strength to it; but the proportion of European recruitment has already been reduced to such a low figure—25 per cent.—that this Government do not consider that the advantages to be derived from the retention of such recruitment are a sufficient reason for continuing the service in this province on an all-India basis. They are therefore prepared to agree to its provincialization. The existing members of both the Indian Forest Service and the Indian

Service of Engineers should, of course, retain all their existing rights and privileges as members of all-India services, and should receive any general concessions which in future may be granted to services which are retained on an all-India basis.

58. This Government agree with the Commission that the success of the changes proposed by them will depend to a large extent on the retention in service of existing members of the all-India services, and that effective measures should be taken to discourage premature retirement. The present position in regard to such retirement is that the existing officers of the all-India services fall into one or other of the two categories, namely,—

(1) those who at present have a right to retire prematurely and will retain that right until the action to be taken on the Statutory Commission's Report is known, and

(2) those who will obtain a right, to continue for one year only, to retire prematurely when the departments in which they are employed are transferred to the control of Ministers responsible to the legislature.

Many officers included in the first category will, if the proposals for the transfer of all subjects are accepted, also come into the second category. All existing members of the all-India services in the province therefore have, or, if all subjects are transferred, will obtain, a right to retire prematurely. Under the existing rules this right will be exercisable in the case of some officers when action to be taken on the Statutory Commission's Report is known, and in the case of others within one year of the transfer of their departments. The Commission propose that these officers should not be required to exercise the option of retirement within any fixed period, but should be given a continuing right to retire. With the experience of the last ten years before them this Government have no hesitation in accepting that proposal as the best method of retaining officers in the service: to prescribe a date beyond which the option cannot be exercised will undoubtedly lead to the early retirement of a number of officers who might otherwise be content to stay on in the service. These retirements will in turn react on the prospect of obtaining recruits in the future. This Government also agree that the safeguards provided for members of all-India services in the Government of India Act should be maintained and that the consent of a majority of the Council of India should continue to be required to any rules or changes in the rules affecting the conditions of service in these services.

59. The Commission have referred to the anxiety of officers in regard to the security of their pensions and of provident and family pension funds in the event of a transfer of financial control from the Secretary of State in Council to the Government of India. They point out that they are not in fact proposing any such transfer, but they nevertheless adopt and confirm the view expressed by the Lee Commission that in the event of such transfer of control

adequate provision should be made for safeguarding service pensions. This Government agree with the view taken by both Commissions, and they also desire to bring to the notice of the Government of India the anxiety of European officers in regard to the rate of exchange at which their provident fund contributions may be transferred to England on their retirement. The United Provinces Association of European Government Servants and the Inspector-General of Police have recently addressed this Government on the subject. It appears that both that Association and the Indian Police Association have approached the Government of India in the matter and have received replies which they consider unsatisfactory. The fear of officers is that the present rate of exchange may be lowered, and their savings thereby materially reduced. This Government appreciate the difficulty of meeting the apprehensions of officers in this matter, but bring it to the notice of the Government of India since the anxiety in regard to the future rate of exchange may counterbalance the good effect of keeping open the right to premature retirement by inducing officers to go while exchange is still favourable to them.

60. The Commission propose that future recruits to all-India services should be given all the rights, privileges and safeguards which they recommend for existing members of these services with one important exception, namely, the right of premature retirement. This is mainly, if not entirely, a question of supply and demand. If the Secretary of State can obtain recruits of satisfactory quality, and in adequate numbers, on these terms, then there will clearly be no justification for offering better terms. But having regard to the uncertainty of the future conditions in which members of the services will have to work and to the impossibility of foreseeing what these conditions may be, there is some reason to fear that it may not be possible to obtain European recruits without giving them some prospect of being able to retire on reasonable terms before the completion of the ordinary period of service. It is not perhaps necessary to give the option of retirement on precisely the same terms as at present, but the conditions of service might be altered so as to give definite rights of retirement after fixed periods of service as in the case of the Indian Army. The period on completion of which the earliest pension should be admissible might be twelve years and higher pensions might be offered on completion of longer periods of service. It seems doubtful whether the somewhat vague safeguard contemplated by the Commission, namely, a moral obligation on the part of the Secretary of State, will be regarded by those principally concerned as sufficient. I am, however, to add that Nawab Sir Ahmad Sa'id Khan is strongly opposed to the provision of a right of premature retirement among the conditions of service of new recruits, and considers that it would be preferable to do without European recruits altogether if they cannot be obtained without such an inducement.

61. This Government accept without comment the Commission's recommendations in regard to the medical treatment of European officers, additional pensions for Governors, and the establishment of provincial Public Service Commissions. They desire, however, to bring it to the notice of the Government of India that the recommendation of the Commission in regard to the medical treatment of European officers will not be operative, unless effective steps can be taken to secure the services of the sanctioned cadre of European officers of the Indian Medical Service. If the present conditions continue, this province will in a few years have no European Medical officers of that service. His Excellency's Ministers desire to make their approval to the establishment of Public Service Commissions subject to the condition that the interests of the minority communities will be safeguarded by a definite scheme providing for the due representation of such communities in the provinical and subordinate services.

Part X.

The High Courts.

62. In this part of their Report the Commission propose to achieve uniformity in the administrative position of High Courts (including the Chief Court of Oudh and the Courts of Judicial Commissioners) by placing them all under the executive control of the Government of India. As desired by the Government of India, this Government have obtained the views of the Honourable Chief Justice and Honourable Judges of the High Court at Allahabad and of the Honourable Chief Judge and the Honourable Judges of the Chief Court of Oudh on this proposal, and a copy of these views is enclosed with this letter. The Government of India will observe that while the Chief Justice and two Judges of the High Court disagree with the Commission's proposal, the remaining Judges of the High Court and Chief Judge and all the Judges of the Chief Court support it. For the reasons given below this Government consider it desirable that the existing relations between these Courts and the provincial Government should be maintained.

63. The Commission lay much stress on the need for uniformity. That argument is a two-edged one. At present the anomaly lies in the position of one Court only, the High Court at Calcutta, and even if it be admitted that there is a need for uniformity, the natural way to achieve that would be by altering the position of the one Court at Calcutta rather than by altering that of the remaining seven Courts. It is not for this Government to express any opinion on the possibility of altering the position of the High Court at Calcutta, but even if it be found impracticable to bring that Court into the same relative position to the local Government

as the other Courts occupy, this Government would deprecate the anomalous position of the Court at Calcutta being made a ground for making a change which they consider unnecessary in the position of the High Court at Allahabad and the Chief Court of Oudh. His Excellency Sir Malcolm Hailey and his Government are in full agreement in desiring that the complete independence of the High Courts in judicial matters should be maintained and that these Courts should be kept free from local political influence, but they are not convinced that the achievement of these objects necessarily involves the removal of the Courts from the executive control of the local Governments. It is reasonable to anticipate that such removal may be construed as a definite mark of distrust in the reformed local Government. The underlying principle of the new constitution which the Commission propose for the provinces is to give the Ministry and the legislature responsibility for the whole range of provincial administration. That range naturally includes the administration of justice. It is therefore unfortunate that the Commission should at the same time propose to limit the field of provinical responsibility by removing the High Courts from the executive control of the local Governments. The Commission have argued with some force that the result of retaining any subjects as reserved subjects would be to focus criticism on these subjects. The same result is likely to follow the removal of the High Courts from the provincial sphere. The change will not protect matters relating to the Courts from discussion in the provincial legislative council so long as the whole judicial administration, other than the High and Chief Courts, remains a provincial subject. If the council wishes to discuss such matters it will have no difficulty in doing so when the demands for grants for the ordinary judicial administration are presented to it. The relations between the High Courts and the district courts must remain intimate and many of the demands placed before the legislature will continue to be based on recommendations made by the High Courts. It is difficult to see how discussion regarding the High Courts can be avoided when such demands come before the councils.

64. It is of the highest importance that the relations between these Courts and the local Government should be those of mutual trust and confidence. The local Government must rely to a large extent on the High and Chief Courts for the maintenance of a high standard of efficiency in the district courts. These Courts, on the other hand, cannot maintain such a standard without the support of the local Government. It follows that the closer and more intimate are the relations between these Courts and the local Government, the more satisfactory is the judicial administration of the province likely to be. The Honourable Sir Grimwood Mears has pointed out that it would not be physically possible for any successor of his to maintain such close relations with the Govern-

ment of India as he has had with this Government. This Government would regret any decision which is likely to deprive the future Government of this province of the advantages which the local Government have in the past derived from its close association in administrative matters with the High and Chief Courts.

65. The Commission have suggested that the change will secure the more complete independence of the Courts from local political influence and will simplify and accelerate business. On these two points I am to say that this Government endorse the views expressed by Mr. Justice King that no change is necessary to secure the independence of the Courts and that the change proposed will hinder rather than accelerate the despatch of business.

66. If the ultimate decision should be that the High Courts are to be removed from the executive control of the local Governments, then some of the existing administrative arrangements between the High Court at Allahabad and the Chief Court of Oudh and this Government will require revision. This Government do not wish to urge this as a reason for not accepting the Commission's proposal, but think it right to refer to it as the necessary changes will involve legislation. At present, for example, the High Court is empowered to remove a munsif without reference to this Government. That is a power which the local Government could hardly be expected to leave in the hands of a Court which is in administrative relations with the Central Government. The Chief Court of Oudh has power to dismiss or otherwise punish the ministerial staff of any court subordinate to it. Here again it would be anomalous to allow servants of the local Government to be dismissed by an order of a Court which was under the executive control of the Government of India. These and other similar anomalies will no doubt be capable of adjustment, but it is right that it should be recognized from the first that adjustments will be necessary and that they will involve legislation. I am to add that this Government assume that, even if the Courts are centralized, the Governor will continue to be consulted before appointments of Judges are made. There are in making appointments of Judges other matters to be taken into consideration than those based merely on the legal attainments of the persons nominated.

ENCLOSURE 1.

From the Registrar, High Court of Judicature at Allahabad, to the Secretary to Government, United Provinces, Reforms Department, No. 3732, dated 22nd July, 1930.

SUBJECT.—Recommendations of the Indian Statutory Commission that the administration of High and Chief Courts should be transferred to the Central Government.

In reply to G. O. no. 2-R., dated June 30, 1930, I am directed to say that Sulaiman, Mukerji, Banerji, Young, Sen, Niamatullah,

Bennet and Kisch, Judges, agree with the proposals relating to the High Court contained in Part X of the Report of the Indian Statutory Commission, in which the Commission have recommended that the administration of High and Chief Courts should be transferred to the Central Government. The opinions recorded by the Honourable Chief Justice and other Honourable Judges are enclosed herewith.

Opinions of the remaining Honourable Judges.

Hon. C. J.—" I am of opinion that there should be no change. I have had over ten years' experience of the working of the present system and have been in association with four Governors. The present system affords an opportunity for discussion between the Governor and other members of the local Government and the Chief Justice, the importance of which can hardly be over-estimated. This personal association would be lost, or at all events made more difficult, by reason of distance, if the transfer were made to the Government of India.

Further, the Chief Justice of this Court could not establish the same personal relationship with a high official resident at Simla or Delhi. Moreover, it is an advantage to the local Government and the High Court that the appointments be made by a local Government, who have, or can easily obtain, personal knowledge of men from whom selection must be made.

Throughout all the time I have been here it has been the practice of the local Government to ask the opinion of the Judges when appointments were under consideration and this has done much to maintain the good relations which exist between the local Government and the High Court and in my opinion also has benefited the people of this province. There are moreover times when an urgent decision has been necessary and on all these occasions the local Government and the High Court are enabled to act promptly.

I know the working of the present system and I am content with it. I do not want it to be changed, and my opinion is impersonal because in any event I shall have ceased to be Chief Justice before the proposed change can come into operation."

KENDALL, J.—" I can see nothing in favour of the proposal. As regards establishment: It is true that the local Government have not been treating us generously of late, but I do not anticipate anything better from the Government of India, which will receive demands from a large number of High Courts without any knowledge of the facts. The local Government at least knows something of our needs, and is much more accessible. In personal matters it is much easier and quicker to get leave, etc., from the local Government, which will have to nominate the officer to officiate in a vacancy even if it has nothing further to do with the appointment.

No doubt it will be more convenient for the Government of India to deal with the High Court of Calcutta and Assam, for the reasons stated in the Report. But there is no reason why the position of these Courts should not continue to be ' anomalous.' I do not think it will hurt any of the other High Courts to continue their relation with the local Governments."

KING, J.—" The proposal is to put all High Courts under the administrative control of the Central Government.

There may be good reasons for the proposed change but the reasons given in the Report seem to me distinctly weak. It is pointed out that the High Court of Calcutta is under the administrative control of the Central Government, while all other High Courts are under their respective provincial Governments. The Calcutta system is shown to be unsatisfactory. No attempt is made to show that the system in force for all other High Courts is unsatisfactory. I do not find even an expression of opinion to that effect. This being the position, the argument that uniformity of treatment is desirable would logically lead to the conclusion that the Calcutta High Court should, so far as possible, be brought into line with all the other High Courts. Even if it is impossible to attain absolute uniformity, because the Calcutta High Courts exercises jurisdiction over Assam as well as Bengal, no good case is made out for altering the system which has been in force for all other High Courts for many years and is not said to be unsatisfactory. A doctrinaire desire for uniformity is not an adequate reason for altering administrative systems which have stood the test of time and have not been found wanting.

The only reasons or justifications given for the proposed change, apart from the desire for uniformity, are as follows :—

> (1) There is reason to believe that it would carry out the real intention of the Feetham Committee. On this I cannot express an opinion as I do not know what their recommendations were, or how far they should be considered authoritative.
>
> (2) Representations were made from several sources in favour of the change.

As the grounds of the representations are not stated, one cannot form any opinion whether they are well founded.

> (3) The importance of maintaining the complete independence of the High Court bench . . . in controversies in which the local administration may be involved.

The complete independence of the bench is no doubt a matter of great importance, but I think the Judges are completely independent under the present system. They are appointed by His Majesty or by the Government of India. The provincial Government cannot transfer them or take any sort of disciplinary action against them. Their salaries are non-votable. The only ' administrative control ' which the provincial Government exercises over

the Judges personally consists in granting leave, but I believe there has never been a Judge who feared that the provincial Government might refuse to grant leave on account of being displeased with him or whose judicial impartiality and independence were in the slightest degree affected by any such consideration. I do not know what sort of ' controversies ' are referred to. Judges have to decide cases. It is no part of their duty to enter into controversies. If it is intended to suggest that Judges are apt to show favour towards the provincial Government, owing to the fact that the High Court is under the administrative control of the provincial Government, I think the suggestion is quite unfounded. I do not see how the proposed change will make the Judges more independent. It is inconceivable that a Judge's impartiality or independence will be affected by the facts (*a*) that his salary is paid from central funds instead of from provincial funds, (*b*) that his applications for leave are dealt with by the Central Government instead of by the provincial Government and (*c*) that the High Court budget is under the control of the Central Government instead of the provincial Government.

(4) The change will simplify and accelerate business.

I think the change will have precisely the opposite effect. Correspondence will be addressed to Delhi or Simla instead of to the provincial capital or provincial summer headquarters. This will, at the outset, involve more or less delay in all cases. The Central Government on receiving the communication will in many cases have to refer to the provincial Government before replying. This would be necessary in the case of applications for leave when a temporary Judge has to be appointed. It would also probably be necessary if the High Court required any additions, alterations or repairs to buildings, and in many other classes of requirements. The Central Government would never be in a better, and usually would be in a worse, position than the provincial Government to decide whether the requirements are justified. Hence the necessity for frequent reference by the Central Government to the provincial Government and great dealy in transacting business.

Although the reasons given for the proposed change strike me as weak and unconvincing, I do not wish to be understood as condemning the proposal entirely. I do not think there is much to be said *against* the proposal except that the new system does not seem to possess any substantial advantage over the present system and that it will involve delay in the transaction of business. There is no reason to fear that the High Court Judges ' will be removed too far from the provincial Government.' The High Court will continue to supervise the subordinate courts and advise the provincial Government regarding the appointment, promotion or dismissal of the subordinate judiciary. This will keep the High Court in close touch with the provincial Government.

As for the High Court Judges themselves I think the proposed changes will make no difference. They will be neither more nor less independent than they were before. I cannot express any opinion on the financial aspect of the proposed changes. I presume that the High Court fees will not be earmarked for meeting the expenses of the High Courts in such a way that the amount available for expenditure will depend upon the amount of income derived from fees. If the budget grants are on the same scale as hitherto the High Court will neither suffer nor benefit financially from the proposed change."

ENCLOSURE 2.

From the Registrar, Chief Court, Oudh, Lucknow, to the Secretary to Government, United Provinces, Reforms Department, No. 1885/XIV—144-21, dated 15th July, 1930.

With reference to your letter No. 3-R, dated June 30, 1930, I am directed to submit the following opinion of the Court on the subject.

The Court agrees with the authors of the Report that the Chief Court of Oudh should be placed under the control of the Central Government for administrative purposes. There are some points, however, to which the Court desires to draw special attention. In para. 343 of the Report, it is observed—" Permanent Judges are appointed by His Majesty." This is so in respect of the Chartered High Courts, and statutory provision sanctioning such procedure is to be found in section 101 of the Government of India Act; but permanent Judges of the Chief Court of Oudh are not appointed by His Majesty but by the Governor General in Council as is provided by section 4 of the Oudh Courts Act (U.P. Act IV of 1925). The Court thinks that in the new Government of India Act, provision should be made to remove this anomaly. As regards Additional Judges the appointment will be made under the Oudh Courts Act, 1925, by the Governor General in Council, but in the same Act provision is made for the appointment of Judges in temporary vacancies by the provincial Government. In the matter of the former appointment the Court is of opinion that the law should remain as it is, that is to say, power should vest as it vests to-day in the Governor General in Council for the appointment of Additional Judges for a period not exceeding two years. In the matter of temporary vacancies the Report observed that " the appointment of temporary Judges should be made by the Governor General, but only after consulting the provincial Governor." The Court entirely agrees with the first part of the recommendation. As regards the necessity for consulting the provincial Governor in the matter of the appointment of temporary Judges, the Court thinks that this recommendation may be looked at from two points of view, viz.,—

(*a*) the appointment of such persons as are members of the Indian

Civil Service or of the Provincial Civil Service, and (*b*) the appointment of such persons as are not members of either of those services. In the former case the Court is of opinion that the provincial Governor should be consulted. The necessity for such consultation is greater in these provinces for the reason that there exist two High Courts in the same province—one at Allahabad and the other at Lucknow. In the latter case the Court thinks that there is no need for consultation with the provincial Governor. In such cases the recruitment is generally made from the Bar and the High Court is in the best position to make nominations for appointment by the Governor General.

APPENDIX.

[Extracts from notes by Hon. Captain Nawab Sir AHMAD SA'ID KHAN and His Excellency's Ministers.]

A.

Composition of the Ministry.

(i)

I have not been able to understand the position of the official Ministers. In practice these official Ministers are bound to prove a great weakness, instead of strength, to the constitution. Suppose a vote of censure is carried against the Ministry and the Ministry resigns on the ground of joint responsibility. When the new Ministry is formed these official Ministers are again included in it. Will it not bring about another vote of censure for this very reason, that the members of the outgoing Ministry were taken into this new Ministry? I know there may be occasions when a certain action of an individual Minister may be responsible for the vote of censure; but in that case not only the official Ministers but even the non-official Ministers, if included in the new Ministry, will be quite safe. But whenever there is a question of broad policy which is the cause of the motion of censure I do not think there will be any chance for the official Ministers to be able to command the confidence of the house if they are included in the new Cabinet. One can understand the position of the Executive Council on the Reserved side; it is straight and frank. It indicates from the very beginning that the Reserved side is beyond the authority of the legislature. But to make the whole thing Transferred and to keep Ministers who are practically irremovable is a very illogical proposal. It is quite likely that the cause of the vote of censure may be the policy advocated by the official Ministers inside the Cabinet, and in fact, it is more often than not that it will be so. Will it be logical to remove the elected members of the house for a policy with which they had the misfortune to agree and to allow those to be included in the new Cabinet from whom it originated. I think such a proposal will be a constant cause of friction between the legislature and the Governor, and I am unable to understand what will be the fate of such official Ministers except that they will be made to retire on higher pension and others will be selected who will meet with the same fate in a short time and so on.—(*Sir Ahmad Sa'id Khan.*)

(ii)

The second point on which the Muslims laid great stress was their inclusion in every Cabinet. I know it is difficult to include such a provision in the Statute; but I think statutory rules can be framed saying that no Cabinet should be composed of members of only one community.—(*Sir Ahmad Sa'id Khan.*)

(iii)

It is obvious that the Commission is not opposed to the idea of guaranteeing representation in the Ministry for the important minorities, but they feel that they cannot do so in the Statute. We are of opinion that there should be a provision in the Statute or statutory rules which may guarantee that the representation of the non-Muslims and the Muslims in the Cabinet would be in the proportion of two-thirds and one-third.—(*Honourable Ministers' joint note*).

B.

Cabinet procedure.

(i)

It is proposed that there should be an I.C.S. Secretary to record the minutes and that he should have direct access to the Governor " so that whether His Excellency was present at a given meeting or not he would be kept impartially and fully informed of the course of business." I regard this as a very unfortunate proposal. What will be the effect of this proposal on the mentality of the Ministers? They will regard this Secretary as a spy on them. From the very beginning it will mean that the Governor has not got full confidence in his Ministers. In fact, the new Constitution will start in an atmosphere of suspicion and mistrust, while for the success of the Constitution, as far as my experience goes, it is necessary that there must be team-working which cannot be had unless all colleagues have full trust in each other. I will go even a step further; I think for a successful Cabinet there should be among the members a sort of feeling of being members of the same family. It is then and then only that the best can be had out of the men. It seems to me sufficient if the record of the minutes of every meeting of the Cabinet should be submitted to His Excellency for his perusal. I think we can take it for granted that those who will be appointed as Ministers will be honest enough not to misrepresent a case before His Excellency.—(*Sir Ahmad Sa'id Khan*).

(ii)

We endorse the recommendations of the Commission with regard to the procedure at the meetings of the Ministry generally. We agree that ordinarily much work should be disposed of at the meetings of the Ministers without the Governor being present. We do not think that there should be any official who should be in a position to advise independently the Governor against any of the decisions of the Cabinet. The Governor after reading the proceedings of the meeting may discuss any particular matter with the Ministers and may, if he thinks incumbent upon him to do so, over-ride any decision in the interest of law and order and in the interests of the minorities. However, we recognize the necessity of some independent agency which would keep the Governor informed with regard to all matters of the administration carried on by the Ministers without having any power whatsoever, except that which may be necessary for and consistent with his duties to gather information for the Governor from the different departments.—(*Honourable Ministers' joint note.*)

C.

Constitutional resolutions.

The proposal that the provincial legislature should have a power to carry a " constitutional resolution " providing for—

(*a*) changes in the number, distribution or boundaries of constituencies or in the number of members returned by them;

(*b*) changes in the franchise or in the method of election; or

(*c*) changes in the method or representation of particular communities,

is calculated to avoid the necessity of a fresh Act of Parliament before these

changes can be made. So far as (*c*) is concerned we are of opinion that the zamindars will not agree to the proposal as they would like permanently to have a right of separate special electorate to send their representatives to the council. The proposal, we think, in spite of the safeguard provided for the minorities, namely, that a constitutional resolution must be carried by two-thirds of the votes of the legislature and " as part of this majority " by two-thirds of the members representing the community affected may not be acceptable to the Muslims who would not be prepared to give up the present right of separate election till they feel they should give it up of their own accord.—(*Honourable Ministers' joint note.*)

D.

Depressed classes.

The importance of the depressed classes lies in the fact that they include within their folds lakhs of humble tillers of the soil and also real agricultural castes such as Kachhis, Laddhas, Kurmis, Murao, Koeri, Tharus, Bhuksas, etc. Had it not been for Tharus and Bhuksas the culturable land of the Tarai would have remained uncultivated. . . . The importance of the depressed classes will fully appear from the following very pertinent observations of Sir Tej Bahadur Sapru:—

> " I do say what is my most sincere conviction, that unless you are able to solve your own social problems about the depressed classes and the untouchables, I do not see any real prospect for real genuine constitutional advance, and any Constitution that you may get will certainly not arouse any interest in me, because I do feel, howsoever good, howsoever perfect, howsoever ideal your Constitution may be, unless you have got the support of the minorities and unless you command the confidence of those whom in your vanity you may describe as depressed classes, your Constitution will not be worth a day's purchase."

So far as my information goes, suitable representatives of the depressed classes will be forthcoming to fill 40 seats on the Council.

The Simon Commission admit that most of the depressed class associations which appeared before them favoured separate electorates with seats allocated on the basis of population. The United Provinces Adi-Hindu (Depressed Classes) Leaders' Conference was held at Allahabad on July 23. " This Conference while thanking the members of the Indian Statutory Commission for taking a keen interest in the cause of the depressed classes, strongly protests against their recommendation of a joint electorate system and is of opinion that nothing short of a separate electorate would ameliorate the social and political status of the depressed classes." The Simon Commission concede that " Separate electorates would no doubt be the safest method of securing the return of an adequate number of persons who enjoy the confidence of the depressed classes." But they are averse from recommending separate electorates for them on the ground that separate electorates will prevent their political amalgamation with other Hindus. They have ignored one important fact. The depressed classes are not a homogeneous body. They consist of a large number of heterogeneous clans which are socially distinct and are kept apart from one another by a spirit of rigid exclusiveness and separation. They entirely lack cohesion and are scattered all over the province. Although according to our *Shastras* as interpreted by the Calcutta High Court the various sub-divisions of the Shudra caste can intermarry but in actual practice intermarriage between them is impossible. The depressed classes have been divided into separate clans by very sharply defined boundaries over which it is impossible for one to pass to another. Ethnologically they are so many tribes and clans, with separate histories and customs. There should be two distinct stages in the process of their political amalgamation with the high caste Hindus.

The first stage should be that they should be brought together and welded into one political unit. Their unification into one political unit will be seriously retarded if the system recommended by the Simon Commission is adopted. Their voting strength will be much smaller than that of the high caste Hindus. A member of the depressed classes who wants to get himself elected will look rather to the ease with which he can secure election to the council than to the political education of his order. He will naturally solicit the support of the high caste Hindus who will be both numerous and influential. . . . When such a candidate is returned to the council, he will be a servile follower of the high caste Hindus and will be more concerned to keep their favour than to represent the interests of his own order. . . . If the system recommended by the Simon Commission is adopted, the candidates returned to council will not only show no interest in the welfare of the depressed classes but will regard themselves as members of the high castes and in no way allied to the depressed classes. The result will be that the concession proposed by the Simon Commission instead of being a blessing will be a veritable curse to them. . . . —(*Raja Bahadur Kushalpal Singh.*)

E.

Representation of great landholders.

(i)

The chief reason that they have given for the abolition of the special representation of the zamindars is that they have been able to capture enough seats in the legislatures through the general electorates. That is true; but it is equally true in the case of other special constituencies. For instance, graduates, professors, teachers and ex-teachers come into the councils through the general electorates and yet the universities are given representation. Similarly, men of business and commerce in the Assembly and the Councils have often been elected through the general constituencies. Is there any reason why they should be given special seats, while the special seats of the landlords should be taken away? If we compare the number of landlords returned to the council in the election of 1924 with those returned in the election of 1927, we find that while in 1924, according to the memorandum of the United Provinces Government, there were 51 landlords, their number has come down to 45 in 1927. With the widening of the franchise I am sure that the chances of the landlords of getting into the councils from the general constituencies will be greatly reduced. But this is not all. The real point is this; that the landlords elected by the general constituencies will perforce try to represent the views of their constituencies in the legislature. Again and again I have noticed in the legislative council that while the landlords representing the special constituencies boldly took a line of their own in regard to a particular proposal, the other landlords, in spite of their sympathy with the proposal, opposed it because they were afraid of their constituencies. A landlord elected by a general constituency will never be able to go against the wishes of his constituents.—(*Sir Ahmad Sa'id Khan.*)

(ii)

We are bound to say that the withdrawal of the rights of the zamindars and taluqdars to be represented through their own associations is a very retrograde and unjustifiable recommendation. The arguments advanced by the Commissioners that the Montagu-Chelmsford Report contemplated only as a temporary arrangement to give representation to the zamindars through a separate special electorate of their own and that they did not desire it to be a permanent feature cannot be accepted as incontrovertible. While it may be arguable on the basis of a certain expression which occurs in the recommendations of the Montagu-Chelmsford Report, namely, "we must

give them special measure of representation, if they need it *at the outset*, but it may be that their political education like the ryots will come mainly by pressure of events" that it was not meant to be a permanent feature. It cannot be denied that the power of the zamindars, as has been found all over the world, is bound to decline gradually, and if special representation to zamindars was found necessary to be given from the very beginning, it is even more necessary now when the working of the Reforms have shown that the majority of the zamindars has decreased after every general election under the Reforms. The alternative suggested that the Governor may nominate zamindars in the legislature if the representation is not adequate according to the representation guaranteed to them under the present Constitution is, in our opinion, extremely unsatisfactory and cannot be acceptable to the zamindars. . . . We are of opinion that at least sixteen seats should be allotted to the Agra Province Zamindars' Association and the British Indian Association of Oudh to return their representatives to the council, as has been recommended by the Indian Central Committee or even more proportionately to the total strength of the council.—(*Honourable Ministers' joint note.*)

F.

Second Chambers.

(i)

As far as this province is concerned I am strongly in favour of a second chamber. This was recommended by the committee elected by our legislature to co-operate with the Simon Commission; it was recommended by the Central Committee also. The Simon Commission has recommended the federal system of government for India. In the majority of cases where there is the federal system different states which form part of that Federation possess their own second chambers. This is a well-recognized form; it has been used in many places as a brake on the democracy and I do not see any reason why we should be deprived of this. Looking ahead one feels that whatever be the form of the Constitution in the near future ultimately the powers of the Governors are bound to disappear, the pressure for their abolition will continue and sooner or later Government will have to modify them. Therefore, the argument used in the Simon Commission's Report, that the existence of this second chamber will be used as an argument to curtail the powers of the Governor is not really a strong argument. That demand will always be made by Nationalist India, and when that time comes people will realize that after all it is a blessing to have a second chamber. I should like to suggest that the future Governors should be directed in the Instrument of Instructions to include a certain number of members of the second chamber in the Cabinet. This will ensure the presence of conservative element there.—(*Sir Ahmad Sa'id Khan.*)

(ii)

The Commission has discussed the question of a second chamber in the provinces at length and has not given its definite opinion one way or the other. We are of opinion that in view of the provincial autonomy to be established, it is absolutely necessary that there should be a second chamber in the provinces where it is pressed for. . . . Specially in the United Provinces the necessity of a second chamber should be recognized. We think that the second chamber should consist of members mainly elected by the recognized landholders' associations, such as the British Indian Association of Oudh and the Agra Province Zamindars' Association and similar bodies in other provinces. Other interests entitled to representation should also be represented. The percentage of the representation of Musalmans by separate electorate in this chamber should be the same as that in the lower

house. Thirty per cent. representation of the Musalmans in the second chamber should be on the basis of 30 per cent. of the elected members in the chamber including the representatives of the depressed classes. Of course this body will necessarily have to be a much smaller body than the lower house. This house should consist wholly of non-officials and nominated members.

Some of the Cabinet members should also be drawn from the second chamber in the provinces.—(*Honourable Minister's joint note.*)

G.

System of election to Federal Assembly.

We are definitely of opinion that the direct system of election to the Federal Assembly should continue as it has existed hitherto. But if we are to recognize the force of argument that in a federal system probably it would be better to resort to indirect election, we will say that the system of election may be partly direct and partly indirect. It may be indirect in so far that the representatives of the Hindus and Muslims may be elected in each constituency by an electorate consisting of the Hindu or Muslim members of the upper and lower house of the provinces residing in each constituency, the Hindu or Muslim members of district and municipal boards, residing in each constituency and also other Hindus or Muslim representatives representing special constituencies and other bodies residing in each constituency. Other minorities may be represented by nomination by the Government or by direct election from the different bodies representing different interests. We think that if our suggestion is adopted, it is likely to be more effective and probably be accepted more readily by various interests and communities. However, our colleague, Hon. Raja Bahadur Kushalpal Singh, is opposed to this proposal as he thinks the urban element and influences under the scheme will predominate. Representation by proportional representation would not be acceptable to the Muslims as it is likely to decrease their representation in the Federal Assembly. Moreover, the proposal has not even the merit claimed for the mixed electorate with reservation of seats for Muslims. Thirty per cent. representation of the Muslims in this house should be on the basis of 30. per cent. of the elected members in the house including the representatives of the depressed classes. We are strongly of opinion that the recognized landholders' associations should have the right to send an adequate number of representatives directly to the Federal Assembly. The British Indian Association at Lucknow and the Agra Province Zamindars' Association at Allahabad, and similar bodies in other provinces, should have a right of electing their representatives to the Federal Assembly according to their demands or even more proportionately to the total strength of the Assembly. These bodies should be treated as separate special electorates to return their representatives to the Federal Assembly. Landholders should continue to retain the right to stand from general constituencies also.

It cannot be said that the zamindars have no vital interests to protect in the Federal Assembly. It will have to be recognized that the zamindars in the Federal Assembly have certain vital interests to protect, such as their share in the naval, army, aerial and railway services, not to mention the services in the different departments under the Government of India.—*Honourable Ministers' joint note.*)

H.

The Army.

Under this head I wish to deal with the proposals made by the Commission about the Commander-in-Chief and the Indian Army. The changes

proposed here definitely reduce the power of the Central Legislature as far as the Army is concerned. First of all, I shall deal with the position of the Commander-in-Chief. In para. 170 of volume II the Commission has recommended that the Commander-in-Chief should not in future be a member of the Executive Council, and if any question arises in the Indian legislature it will be dealt with by a civilian or perhaps by one of the members of the Executive Council. The effect of the Commission's recommendation is to put the Army under the control of the Viceroy instead of the Government of India with the object, as they say, of assisting " in removing from the path of Indian constitutional progress an obstacle which otherwise threatens to block it for an indefinite time." I admit the Army question is an all-important one, and there is nothing further from my mind than to make any suggestion for any radical change in that direction. I agree that the Army should be treated as a Reserved subject. I agree that the legislature should not be allowed to have too much interference with the Army Budget. I believe this is the present position. The Assembly can only discuss the Budget, and the members during the discussion can only make suggestions, and it is not necessary for the Government of India to accept any cut or to act on any suggestions made by the Assembly. They are quite free to do as they like. In the recommendations of the Commission it is proposed that Indians should not be allowed even to associate themselves with the question of the Army and with the problems of the defence of their country. The Indian members of Government, although they are not in charge of the Army, as members of Government, I believe, discuss the question of the Army and their suggestions carry some weight with the Commander-in-Chief. But as it is proposed, they will have nothing to do with the Army in future and the whole thing will be dealt with by the Commander-in-Chief in consultation with His Excellency the Viceroy. I am aware of the importance of this question, and I do not wish to make any suggestions for a radical change. The present system has worked perfectly well for a long time, and I see no danger if we allow it to continue instead of accepting the recommendations of the Commission.—(*Sir Ahmad Sa'id Khan*).

I.

Taxation on Agricultural incomes.

The question of taxing agricultural incomes is one which may have very far-reaching effects. It deals with the life blood of the agricultural community of India. Apart from the theory whether revenue is rent or tax, there can be no denying the fact that whatever increase is proposed, either as tax or as rent, it will be a further burden on land. The question whether those who wish to impose the tax regard it as rent or tax does not interest the person who will have to pay it. To him it matters little by what name you levy the impost; what interests him is—how much is left for him and his children. Therefore I think that what applies to Government land revenue policy can apply to the taxation of agricultural incomes. Here I may make two quotations giving the views of expert officers on the land revenue policy. These may sound irrelevant because we are dealing with a tax on agricultural incomes; but, as I have said, I treat both in the same light and therefore they are applicable here. Sir Charles Metcalfe observed:—

> " I believe that the happiness of the bulk of the inhabitants of the Western Provinces depends more on revenue settlement than on any other thing whatever."

Sir Alfred Lyall once observed that:—

> " Few human beings could cause so much misery to so many people as a settlement officer who over-assessed a district."

Here I may mention that whatever be the name, tax or rent, it is a further burden on land and it will be passed on to the cultivator in time to come, if not immediately.

Now, coming to the vexed question whether land revenue is a tax or rent, I know that opinions differ, but the arguments put forward by the Indian Taxation Inquiry Committee, who were an expert body in dealing with a question like this, are interesting and illuminating. They have dealt with this question in para. 78 of their Report. They have dealt with the practice before the British occupation in the time of Muslim and Hindu rule. They have quoted many eminent writers, and I will only quote from them the conclusions arrived at by the Bombay High Court in a case from Kanara which are as follows:—

> "This review of the authorities leads us to the conclusion arrived at also (after careful discussion of the question) by Professor H. H. Wilson, that the proprietary right of the sovereign derives no warrant from the ancient laws or institutions of the Hindus and is not recognized by modern Hindu lawyers as exclusive or incompatible with individual ownership."

As to Muslim rule, they have quoted Colonel Galloway, who was the greatest authority on the Hanifan school of Islam. He says:—

> "The soil was the property of the cultivator as much as it could be. Law gave no power, policy gave no motive to remove him or to disturb him, so long as he paid his taxes. When he did not, his lands could be attached; and so can those of the first Peer holding by the firmest tenure of the English law. The right of the Indian husbandman is the right of possession and of transfer; and the rate of his land tax was fixed; often indeed the amount. In what respect, then, is his right of property inferior to that of the English landholders?"

So far it deals with the times before the British *raj*. On page 64 they have quoted two decisions by the Privy Council. They were of course about Bengal. There the Lord Chancellor stated:—

> "Considering with the best attention in my power these papers, they confirm most strongly the opinion I should have derived from the permanent Regulations, namely, that the proprietor of the soil had a permanent interest in it at the time when the English established themselves in that settlement."

It is admitted that the proprietors of the soil had a permanent interest in the soil when the English established themselves. It may be argued that all this was said of those who live in the permanently-settled districts. But this argument has no force. The members of the Taxation Inquiry Committee agreed on page 66 that "in the generality of cases the zamindars and ryots are respectively the possessors of the proprietary right subject to the payment of land revenue." Therefore, those who think that land revenue is a tax have got a strong ground to stand upon.

Now, let us take the practical side of the case. It will be very difficult to find out the real sum to be assessed. As we know, landlords do not generally keep accounts, and it will be a great hardship for them to do so; they pay most of their wages in kind; and I do not see any means of finding out exactly what is the income to be assessed, unless it be by some rule providing for taking into consideration, in assessing the tax, the rent of a tenant. We know that the settlements, although they are made in the districts after every forty years, create great disturbance in the life of the village. But this will have to be done annually, and the settlement process on a minor scale will continue in the villages to upset the village life. Then there are suspensions and remissions, and from year to year a fairly large staff will be engaged to find out the real amount that should be assessed.

As to political objections, the Committee themselves have mentioned them in para. 268 of their Report. I am sure further taxation on agricultural income is wrong. It will bring down the price of the land a good deal and will cause great economic distress. And the political effect of it in future will be such that the income so derived will hardly be worth the bitter feeling that this is sure to create.

In short, the position in the districts which have periodical settlements is that the proprietor of the land has to pay 40 per cent. of his income as land revenue and 10 per cent. as cesses. The question then remains whether there is any justice in taxing him further. If he is to be taxed on the top of this the position will be simply intolerable and is bound to revolutionize the whole structure of rural society in this country. If he is to be taxed instead of land revenue the number of exemptions will be such that it will not be worth while to do so.—(*Sir Ahmad Sa'id Khan.*)

K.

The Services.

As to the security services, i.e., the I. C. S. and the I. P. S., I hold the same view which I expressed in 1924 as Minister, i.e., they should be kept as all-India services, recruitment should be made not by the Secretary of State but by the Government of India, and they should have the right of appeal to the Government of India in cases of their promotion, supersession, etc. My reason for proposing this change is that with the further advance of responsible government in this country the services should be responsible to some authority within India and not to an authority outside the country. I know there are certain important points where the control of the Secretary of State should be kept—points of military importance or of Imperial interest; but I do not think that the question of the services is of such importance that the Secretary of State should be responsible for their recruitment. The reason why I did not propose to provincialize these services is this. A certain number of members of these services will always be required for the Central Government, and the present arrangement has worked excellently. They select officers from various provinces, and if the services are provincialized they will either have to recruit separately for the centre or to take officers on deputation from the provinces. In the former case, the efficiency of the central cadre will be very much reduced by the fact that they will have no experience of the provinces. At present irrespective of the views of the local Government the Government of India can benefit a lot from the experience of such officers belonging to the various provinces who happen to be there. In the latter case, i.e., in the case of deputation, there will always be difficulties in their promotions, and they will always look back to their provincial Governments as their masters instead of looking up to the Government of India. Besides this, I agree that it will be desirable to continue recruitment of Europeans in these two services for some time to come. I understand it will be difficult to get recruits if the services are provincialized. It should be easier to get European recruits if the Government of India will give them a guarantee about their pay, pensions and prospects. I am told that European recruits would not like to come out unless the services are controlled by the Secretary of State. I do not see why the guarantee given by the Government of India, which is as much part of the British Empire as any other country, should not be regarded as sufficient to induce European recruits to joint the Indian services.—(*Sir Ahmad Sa'id Khan.*)

PUNJAB GOVERNMENT.

From the Additional Secretary to the Government of the Punjab to the Joint Secretary to the Government of India, Reforms Office, No. 4706-S. Reforms, dated Simla, the 14th of August, 1930.

I am directed to reply to your letter No. F. 67/30-R. of the 24th of June, 1930, asking for the views of the Government of the Punjab on the recommendations of the Indian Statutory Commission.

2. The memoranda which I am directed to enclose are divided into two portions. The first, Enclosure A, contains the views of His Excellency the Governor, Sir Geoffrey de Montmorency, K.C.S.I., K.C.I.E., K.C.V.O., C.B.E., I.C.S., and of the Honourable Member for Finance, Sir Henry Craik, Bart., C.S.I., arrived at after an informal but detailed discussion of the second volume of the Report with the non-official members of Government. The second, Enclosure B, contains the views of the non-official members of Government recorded after the official views had been in their hands. The Honourable Member for Revenue, the Honourable Khan Bahadur Captain Sikandar Hayat Khan, M.B.E., formally expresses his concurrence with the views of the official Members, subject to his minute in Enclosure B.

3. With regard to the request contained in paragraph 5 of your letter for an estimate of the reception which the recommendations of the Commission have received in the Province, the Punjab Government observes that the first impression given by a review of the opinions expressed in the Press or otherwise (which, as will be explained later, are the opinions of a very limited number of people) is that the report of the Statutory Commission has been received with universal and unqualified condemnation. To disentangle from this view the various threads of opinion, it is necessary to bear in mind that the majority of those who have any appreciation of the situation are pre-occupied with the object of securing for their respective communities the best possible place in the new constitution. From this point of view the element of bargaining is vital; any expression of satisfaction would, it is felt, be regarded as tantamount to an abandonment of further demands; and when this sentiment is coupled to that general tendency to violence in expression which is a feature of the popular press, it is possible to regard the most trenchant condemnation of the report as really meaning no more than that it is desired to press strongly for further concessions; and if this is true of the conflict between various communities, it is not less so of the criticisms levied by liberal opinion as a whole against the provisions intended to maintain the control of the British Parliament. Further, in appreciating the general current of opinion the Punjab Government

bears in mind those very true words which end the first volume of the Statutory Commission's Report, where emphasis is laid on the strength and intensity of the demand among all educated Indians for equality with Europeans, and on the resentment aroused by any suspicion of differential treatment. The result of this, on the one hand, is the demand among all educated classes alike for the position of equality for India among other nations which may be described by the convenient if vague expression "Dominion Status." This, on the other hand, is qualified to a degree which varies enormously, by a mental reservation that too much must not be sacrificed for it. This double tendency leads inevitably to inconsistency, as we will find the same persons, while they are thinking of national equality, brush aside as bogies the considerations which point to safeguards; while at another time, when they are thinking of the actual future which faces themselves and the members of their particular class or community, they insist that safeguards should be provided, although the form they take is too often that of the dominance of their own community.

4. Passing to criticisms on the specific proposals of the Commission we find that they fall into two classes corresponding with these two distinct points of view. On the one hand they are what may be called liberal or nationalist criticisms directed against anything that appears to maintain the control of British Parliament through the bureaucracy, or to prevent the freest exercise of what are regarded as democratic principles. The second class of criticism may be described as the communal, in which each community protests against the position of inferiority to which it considers itself to be subjected, or the lack of recognition of the need for prominence which its particular minority requires.

5. In the provincial sphere, if the transfer of all subjects to Ministers has been received with satisfaction, care has been taken not to stress it. This may be due partly to what has been described above as the bargaining idea, but is also partly due to a deep-rooted suspicion of any officially sponsored concession falling short of what it might have been in individual opinion. Perhaps the Punjab Government itself must plead guilty to having accentuated this suspicion, by having been the first of the Provinces to recommend the transfer of all subjects to Ministers: for we detect the feeling that a proposal which has been made by officials must have a catch in it somewhere. Apart from this general distrust, the proposal of the Commission which has been most strongly attacked is that of the official member in the ministry. It is felt that behind this lies the intention that the transfer of power should be made illusory by giving this member the portfolio of law and order. Mild objection is also taken to the proposal to appoint a Council Secretary, probably as a part of that general suspicion of the permanent official which is by no means

confined to India, though this is mitigated by practical acquaintance with the fact that he is indispensable. Another objection is to the proposal that only the Ministry as a whole should be liable to censure. As the Statutory Commission has pointed out, popular institutions in England only work because the Cabinet dominates the House and not the House the Cabinet. This is a situation which even in England the back benches find it hard to bear, and is one which will never be popular.

6. More marked is the objection that is taken to the powers given to the Governor. It is believed, though without any justification, that these are more extensive than those which he at present exercises, and it is noteworthy that although no satisfactory protection for minorities can be found except through the powers of the Governor, and although in practice the appeal to such powers is almost instinctive to the Indian people, the critics do not welcome these powers as a means of protection. The reason of this no doubt lies in the theoretical liberal objection to the existence of autocratic powers, coupled with a somewhat naïve belief in the efficacy of protection by constitutional enactment. A great deal of the interest in the protection of minorities turns round the Land Alienation Act which all agriculturists desire to be placed out of the power of a Central Government to amend and which urban interests desire to be declared unconstitutional.

7. As regards the Centre there is general nationalist criticism, in which all communities join, of both the separation of the Army and the irresponsible nature of the Central Government. As regards the latter it is unnecessary to expatiate. The objections from the nationalist point of view are obvious, that the constitution does not provide (e.g.) for commerce and finance being administered in accordance with Indian interests, and that it contains in itself no promise for a future day when responsible Government in the Centre will be given. At the same time there are indications that the Muslims feel some relief that the proposals have not taken the form of a Cabinet responsible to a Central Legislature with a Hindu majority. With regard to the Army there is a very general sentiment against its removal from the purview of the Central Legislature and of the Government of India, though some sober thought recognises that this was inevitable in transition; and it is felt that this condemns India indefinitely to a situation in which it will be dominated by a foreign army. Moreover, the deepest suspicions are felt on the sincerity of the intentions about Indianization. The argument that so long as British officers and troops are necessary in India they cannot be under the orders of a Dominion Government is hardly understood, and is regarded purely as the outcome of racial pride. And it may be true that there are those who shrewdly believe that if it is embarrassing for India to be deprived of the British Army, it will be equally embarrassing for England to

have the Army returned on her hands, and that it is not beyond the scope of bargaining to retain its services on better terms.

8. The federal constitution of the Central Legislature is attacked more on communal than nationalist lines. No doubt the Hindus who are unanimously opposed to federalism base their arguments on the undemocratic nature of the proposal, on its tendency to hinder the national unity of India and on the design which they profess to see beneath it of preventing the voice of India being heard; and no doubt there is some genuine expression of nationalist feeling behind this; but it is impossible to resist the conclusion that the bitterness of their opposition is largely prompted by the fact that the federal system makes impossible the domination of India by the Hindu intelligentzia. The Muhammadans, on the other hand, seem to be divided on the question of indirect election; some favour it: but urban Muhammadans seem to entertain a suspicion that it will deprive the urban classes of a fair representation in the Centre; but all favour federalism from the feeling that local interests (that is to say, Muhammadan and agricultural interests) would not be safe under a popular Assembly directly elected and composed chiefly of Hindus.

9. On the purely communal question opinion follows stereotyped lines, on which it is unnecessary to deal at length as the main positions of the various parties have been fully expressed. There are no signs (and it is hardly reasonable to expect them) of any mitigation of the full Muhammadan claim for separate electorates, continuance of minority weightage, and majority representation for themselves where they are in a majority of population: Muhammadans also express themselves dissatisfied because Sind is not to be separated from Bombay, the North West Frontier Province is not given full provincial status and nothing is done for Baluchistan. At the same time, many who are in a position to gauge the feeling of the community are of opinion that they are not so dissatisfied with the proposals as for bargaining purposes they make it appear. The Hindus, on the other hand, are genuinely concerned at what appears to them to be the perpetuation of Muhammadan rule in the Punjab without a counterbalancing power of control from the Centre. The Sikhs retain their view that if there are separate electorates they should get as much weightage as any minority community elsewhere, and in particular adhere to the claim for a third of the Provincial seats. They share with the Hindus their fear of Muhammadan rule in the Punjab.

10. So far we have only dealt with the opinions expressed in the press and by the more vocal and politically active section of the intelligentzia. Turning to other classes which are more numerous and of solid importance in the Province, the landlord classes have protested against the suggested abolition of special

landholders representation and the suggestion to tax agricultural incomes; but, apart from this, there is no indication that the great bulk of the rural (or indeed the urban) classes have any real information or views regarding the recommendations; and the majority of the district officers stress the point that their local rural notables know little or nothing about the report, and that even among the urban intelligentzia there are few who have attempted to make themselves acquainted with it. Copies of opinions* received from the Commissioner, Lahore, and the Deputy-Commissioners of Hoshiarpur, Jullundur, Gurdaspur, Gujranwala, Amritsar, Muzaffargarh and Multan are enclosed. These are generally typical of the reports received and provide an interesting picture of the attitude of the bulk of the people of the Province.

ENCLOSURE A.

Memorandum containing the opinions of the Official Members of the Government of the Punjab on the recommendations of the Indian Statutory Commission.

TABLE OF CONTENTS.

	Paras.
I.—Introductory	1—9
II.—Provincial Redistribution	10—14
III.—The Governors' Provinces—	
A. The Provincial Executive	15—21
B. The Provincial Legislature	22—41
C. The Franchise	42—43
D. The Second Chamber	44—46
IV.—The Backward Tracts	47—48
V.—The Centre—	
A. The Federal Assembly	49—53
B. The Council of State	54—58
C. The Governor-General in Council	59—67
D. Relations between the Centre and the Provinces	68—71
VI.—The Question of Defence and the Army	72—80
VII.—Finance	81—92
VIII.—The Services	93—103
IX.—The High Courts	104—109
X.—Relations between the Home and the Indian Governments ...	110
Appendix A.	
Appendix B.	

---

* Not reprinted.

I.—Introductory.

(Report, Part I.)

The Indian Statutory Commission has observed that the constitutional system which it has propounded must be judged as a whole; and the more closely we have examined the scheme, the more forcibly we are struck with the close interrelation between the parts and the whole and with the repercussions in other features of the scheme which criticism of one or more portions in details inevitably involves. We feel that before proceeding to a detailed discussion of the various proposals put forward, we should consider the general scope of the Constitution which has been suggested for the governance of the Indian Empire.

2. We are convinced that the Commission is right in holding that if India is to take its place in the Commonwealth of Nations, which form the British Empire, an All-India, and not merely a British Indian, solution for India's constitutional problem must be sought. We are fully agreed also that whatever constitution is now devised should be elastic in frame, and contain within itself the seeds for future adjustments and developments, obviating periodical enquiry by any outside agency into new forms of growth. We shall now proceed to examine these two fundamental propositions.

3. As regards the former, the position of the States is in itself a powerful argument in favour of recourse to the federal plan as an ideal for an All-India Constitution, even though the complexities involved may tend to retard early and complete realization. The perspective for the whole structure which the Commission presents is the organization of the Indian Empire on a federal basis, of which the constituent parts will be the provinces in the immediate future and the States at some, probably more remote, future date; but delay in accretion of the latter, we observe, need not retard the immediate completion of the federation of the provinces for the purpose of a Central Government in British India. So leaving aside for the moment the question of the inclusion of the States, we may proceed to examine the relation of the provinces to the Centre. This involves an issue of primary importance between the merits of a Federal Constitution on the one hand and of a Unitary Central Government on the other. We feel that in this matter it is easy to fall into the mistake of laying excessive stress either upon historical parallels and precedents elsewhere or upon theoretical principles. An argument against federalism, which is commonly put forward, is one of a theoretical nature. A federal constitution, it is pointed out, is normally one in which States, that are already sovereign, agree to surrender a portion of their sovereign rights to a central body; and such a constitution, it is argued, can have no relation to the provinces of India which

are not, and have never been, sovereign bodies, but, on the contrary, are and have always been creatures of the Central Government. To this in the field of political theory it may be replied in the first place, that though the provinces are no doubt the creation of Parliament, they are not, and have never been, the creatures of the Government of India, except in so far as the latter exercised supervision, direction and control over them as agent of a Secretary of State responsible to Parliament. Further, because the Government of India Act gives the provinces rights and powers which cannot be taken away by the Central Government, they are now *vis-a-vis* the Central Government invested to some extent with the attributes of sovereignty; and finally it may be urged that in so far as Parliament has divested itself of the intention to interfere with the administration of transferred subjects, to that extent (so far as the peculiar constitution of the British Commonwealth permits) Parliament has endowed them with elements of sovereignty. From another aspect it is better to build up from below by the natural development of items already in the practice, within a considerable sphere, of representative and self-governing institutions. But in truth the question is not one for theoretical discussion, for whatever the position that has been created by the Government of India Act, it may still be altered by Parliament; and the question for consideration is whether here and now the process should be continued of investing the provinces with the attributes of sovereignty, or whether Parliament should retrace its steps, and create in India a unitary Government from which the provinces will hold all their powers by delegation. This is a question which we consider should be decided on its merits without regard to the subsequent inclusion of the Indian States in an All-India federation; because the prospects of that federation are so remote that they ought not, in our opinion, to stand in the way of making, as soon as practicable, whatever may be considered the best constitution for British India. In this controversy the Punjab Government in its Memorandum prepared for the use of the Statutory Commission has already given its verdict in favour of the federal system by which the powers of provincial Government are derived by direct delegation from the British Parliament, and the relative position of the spheres of the Central and provincial Government respectively shall be clearly defined by a Statute; and to this general position, in which we are supported by the authority of the Statutory Commission, we adhere. This seems to us the natural and logical road of the development of what has already been established in the first stage of the reforms. We are not unconscious of the argument which lays stress on the fact that in past history the danger of India has been the centrifugal tendency; but we feel that modern communications are in themselves a sufficient guard against that peril, and that what is to be feared to-day is the risk that a majority chosen in very large and diffused constituencies from the whole extent of a sub-continent

may seek to impose its will against local feeling, as expressed in provincial legislatures, whose members are elected from smaller and more concentrated constituencies and are in closer touch with their electors, and in spite of local conditions. We are fortified in this view by the fact that there have been in the past ten years several incidents illustrating this tendency.

4. In our Memorandum we left the subject at the point of expressing our opinion in favour of the general position that the provinces should be federal bodies, and expressed no opinion as to the method of their confederation. The proposals of the Statutory Commission now take us a step further and definitely propose that the Central Legislature should derive its political tinge from the provincial legislatures, inasmuch as it is elected by them. In spite of certain obvious disadvantages of indirect election we are in favour of this proposal, because it emphasizes and establishes beyond dispute the federal nature of the Indian Constitution. A Central Legislature elected independently by direct election might claim not only a separate existence but also an overriding authority from that of provincial legislatures; but a body elected by these legislatures to represent them obviously draws its inspiration from them, and will ensure that central activity for common purposes will ordinarily be in harmony with the general sense and sentiment of the constituent parts.

5. As regards elasticity for development and adjustment, as far as the provinces are concerned, we consider that the provision made for possible changes in the composition of the legislature, referred to in paragraphs 95 and 109 of Volume II of the report, is adequate. There are other matters of somewhat lesser relative importance in which the discretion to change or to use alternative methods seems to be sufficiently provided in the project. We have received the criticism that the relations between the Central and provincial Governments as regards respective spheres of activity are too static. This must necessarily be so, if the danger of one authority trespassing on the other is to be avoided. Nevertheless, the provisions of paragraphs 184 to 188 of Volume II, where, by agreement, fields of mutual interest can be enlarged and opportunities for co-operation secured, and the method explained in paragraph 306, whereby the allocations of particular taxes to the Provincial Fund can be changed by a special procedure necessitating a very large majority of agreement, appear to us to be instances where, by mutual arrangement, really necessary adjustments in interrelations can be secured.

6. Leaving aside for the moment the examination of the scheme for the Central Government, we observe that the Commission has not been able in this case to paint-in the colours which will form the final picture with so sure a hand. The close connection of the activities of the Central Government with matters of broader interest, which impose a certain burden upon a Parliament charged

with imperial and international obligations and other special responsibilities, the uncertainty of the time and manner of the merging of the Indian States in the federal whole, the period needed for the growth of self-sufficiency in defence, the necessity for safeguards while the constituent provinces of British India are being established in their new and wider field of autonomy in provincial affairs, all point to a transitional stage in which the final form of the eventual metamorphosis of the centre cannot be accurately delineated. Meanwhile, the Commission has visualised a federal Assembly with a composition of a very different nature to that of the present Legislative Assembly and with inevitably increasing and weightier reactions on the Executive; and the provisions of paragraphs 169 and 173 of Volume II of the report vest the Governor General with a discretion so to choose his Executive Council that it may increasingly include in its unitary authority "responsive" members, connected with, though not responsible to, the Legislature. It is at this point that the uncertainties of transitional conditions referred to above compel the Commission to leave their picture unfinished; and whatever comments may arise as regards details, we feel that the immediate difficulties, of necessity, restrict further vision.

7. Before we pass on to examine the scheme for the provincial system of Government in detail, we desire to express general agreement with the observations regarding the needs for safeguards at this stage and at the present time, which are contained in Chapter 5 of Part I of Volume II of the Report. We are convinced of the reality of the menace which the length of India's frontiers both by sea and land represent; and subject to some observations regarding provincial militias, which we will record later, we fully recognize that the need of an army in India sufficiently strong and well equipped for the task of defence and the maintenance of internal security is a fundamental requirement. We likewise agree that for many years to come it must contain British troops and British officers serving with Indian Units. We shall have something to say later as regards what we conceive to be the general sentiment concerning the Indianization of the Army and the building up of a Dominion Force.

8. We also agree with the Commission that, while conditions are in the state of progress towards complete self-Government, the maintenance of law and order must remain a matter of special concern; and that, in this connection besides a stable Central Government, there will be need for some special powers to vest in the Governor General and Governors, in the exercise of which they will be responsible to Parliament. Similar provisions will likewise be needed to ensure the power to act effectively in an emergency and to prevent the breakdown of regular administration and its lapse into a state of anarchy.

9. With the development of full self-Government we hope the day is not far distant when the problem of minorities will cease to loom so large as it does at the present time; but as things are now, it is generally acknowledged to create a serious situation, for which a satisfactory palliative for the nonce is not forthcoming from within, but must be sought from some impartial outside source. For some time to come it appears clear that special power to interfere to protect the weak should be vested in the Governors and Governor General; and we believe that only by this method can we secure for these classes effective protection. The other device of a recital of their rights in Statute, supplemented by facilities for recourse to a judicial body for their interpretation and enforcement, is in our judgment ineffective and impracticable.

II.—Provincial Redistribution.

(Report, paragraphs 37 and 38.)

10. We must confess that we are puzzled as to the exact implications of the recommendations of the Commission under this head. It is stated to be a matter of urgent importance that the Government of India should set up a Boundary Commission to investigate the main cases in which provincial readjustment seems called for, and endeavour to work out schemes with a view to seeing how far agreement is possible.

11. It is not clear to us whether this Commission is to be set up forthwith and whether decisions on its recommendations will be awaited and reached before the introduction of the new Constitution. If this is so, it must inevitably delay the consummation of the first steps of the latter, as the decisions would undoubtedly affect in a marked degree the details of arrangements for Central and provincial legislatures, service cadres and provincial finance. The consequent delay in the introduction of the reformed constitution would, in our view, be politically most undesirable.

12. The other alternative, namely that we should proceed to consider and shape reforms dealing with the provinces as now constituted and hold the boundary enquiry subsequent to the introduction of the new constitution, involves some almost equally inconvenient results. The question of the separation of Sind is a point of insistence in the creed of a large section of Muslim opinion; and in some quarters the problem of political balance will not be considered as solved until this question is decided. Boundary enquiries are, generally speaking, unsettling; and past experience has shown that they possess some special property for mass irritation. The new reforms could hardly start in more unfortunate conditions if the first years of their working are to be passed in an atmosphere of the agitations and uncertainties which boundary inquiries invariably engender.

13. We fear that we have raised difficulties without giving helpful suggestions towards their solution; but one thing we wish to make clear is that no need is felt for any enquiry or readjustment in this Province; and we venture to urge in the general interest that if and when a Boundary Commission is constituted, its attention should be strictly confined to really outstanding cases, such as Sind, the Ooriya country, Sylhet and Cachhar. We feel that a roving brief can only result in general unsettlement, in bringing dormant volcanoes into activity in British India and in the revival of numerous claims by Indian States to tracts long since included in British India.

14. If an early solution of the Sind and Ooriya country problem could be devised and subsidiary enquiries into other cases could be postponed until after the new constitution had settled down, the political exigencies of the situation might possibly be met.

III.—The Governors' Provinces.

(Report, Part II.)

A. *The Provincial Executive* (*Chapter* 1).

15. Turning to the question of the form of Government to be established in the provinces we accept the general principle laid down in paragraphs 46 and 47 whereby there will be established in each province a Unitary Government responsible to the legislature over the whole provincial field. In pursuance of this general principle, after a most careful consideration of the implications as regards Law and Order, Finance and Revenue in particular, we agree to the transfer of all subjects in the provincial field. We also agree to the principle of joint responsibility of the Cabinet, and to its corollary that the legislature can only censure the policy of the Cabinet as a whole and not that of an individual Minister. We also agree that it should be provided in the Constitution that Ministerial salaries are not liable to be reduced or denied by a vote in supply but should be alterable only by statute; and finally we think that the appointment of Under Secretaries is probably desirable and would help to consolidate the position of the Cabinet in the House.

16. As regards the composition of the Ministry, the Punjab Government in Part II, paragraph 40 of its Memorandum for the use of the Statutory Commission recommended that there should be included in the Cabinet an official member partly to introduce the element of administrative experience, and partly to give the Governor the assistance of an official colleague; and in paragraph 48 the Statutory Commission has made the inclusion of one or more such members optional with the Governor. The two proposals are essentially different. That of the official members in the Punjab Government's Memorandum envisaged that the official member

would hold office in successive Ministries and would be allotted an unimportant portfolio. This does not seem to be inherent in the proposals of the Statutory Commission; indeed the implication of paragraph 64 of Volume II of the report is that he might be entrusted with the portfolio of Law and Order. We see the difficulty which may be felt in provinces, such as the Presidencies, with a Governor previously unacquainted with the details of Indian provincial administration and conditions, if there is no experienced technical Indian administrator to place considerations before the Cabinet, and we realize that in these provinces it may be necessary to retain this discretion, but, after careful thought, we consider that where it can be dispensed with, it should not be employed; and we would deprecate its use in this Province under present conditions. There is no doubt that the presence of an official in a Unitary Cabinet introduces an element of unreality into the joint responsibility of the Cabinet and their relations with the legislature. Nor will the position of such a Minister be easy. He may constantly have to subordinate his considered opinion based on his experience of administration to another view. If he goes out with one Ministry and returns with another, he is likely in popular estimation to come to be considered the unlucky genius of the Cabinet. While if on the fall of a Ministry he reverts to official duties, he stands the risk of being considered *quâ* an official as influenced in favour of views which prevailed in the Cabinet in the time of the late Ministry. The inclusion of the official member is a feature of the proposed Constitution which has been specially singled out for attack, and has and will be used as an argument to prove that the responsibility of Cabinet is meant to be but an illusion. With the wish that responsibility in internal and provincial affairs should be as complete as circumstances permit, we think it very desirable that no shadow of ground should be left for this allegation, and, after full consideration, are prepared to abandon the official member, considering that both requirements can be met by an amplification of the proposal made in paragraph 51 for the appointment of a Secretary to the Cabinet. In the altered conditions the Governor will feel difficulty in retaining sufficient touch with the departments and in being supplied with sufficient information to judge whether he is fulfilling the special responsibility laid on him by his Instructions, for which he is endowed with special powers. The new element of joint responsibility in the Cabinet may also place Ministers in a position of difficulty which hardly exists at present. It will be desirable in the interest of the working of their joint responsibility to increase the volume of Cabinet papers and elaborate schedules of decisions and orders in different departments which are circulated for the information of the Cabinet. An individual Minister may not infrequently require recourse to some agency by which he can procure additional information about some line of policy in administration

in a department of which he is not in immediate control. He may desire this information for the purposes of discussion with a colleague or prior to moving that in the interests of joint responsibility some matter should be ventilated in Cabinet discussion. For these purposes a Cabinet Secretary with enlarged functions will be useful. We think that this official should be called Principal and Cabinet Secretary. He should attend all Cabinet meetings and should also have the right of calling for papers from any department. He should be permitted to set forth verbally the administrative information and considerations pertaining to any question in the Cabinet (in which he will not, of course, have any vote or position as a member). He will be responsible for "vetting" the completeness of the departmental summaries on questions coming up before the Cabinet for discussion and decision. He will keep a record of the proceedings of the Cabinet. He will be at the disposal of the Governor and the Ministers in the Cabinet for procuring information as regards action which is being taken in departments on any particular matters; and he will, when the Governor does not preside at a Cabinet meeting, place the proceedings of the Cabinet before the Governor, and convey his views to the Cabinet. While we have considered and rejected the alternative proposal that it should be open to the Governor to appoint officials as Ministers, we are of opinion that powers should be reserved to the Governor to appoint as Minister a non-official who was not an elected member of the legislature, and it should be a condition of his tenure that he should find a seat within six months of his selection. We consider that this discretion should rarely be exercised, and only used when the Ministers chosen urge the inclusion in the Ministry of some prominent person who by accident or in the chances of election has failed to secure a seat but who is otherwise marked out for useful and popular service in a Ministry.

17. As regards the selection of the Cabinet, we are in general agreement with the views expressed in the second portion of paragraph 55 and particularly with the proposal that the appointment of a Chief Minister should be left optional. As already proposed in paragraph 41 of Part II of our Memorandum, we think it desirable that the representatives of different communities should be included in the Cabinet, but we do not think it possible to do more than to provide in the Governor's Instructions that he should make this attempt. The formula in the Instructions can hardly go further than that suggested in the Memorandum of the official members of the Punjab Government submitted to the Simon Commission, namely, that until the development of parties on another basis than that of community has been more firmly established, it will be still desirable for the Governor, so far as possible, to endeavour to include members from the three leading communities.

18. With regard to the meeting of the Cabinet (paragraph 51), we consider that it should be left to the Governor's discretion whether he should preside or not, but we think that if he does preside, he should not exercise a vote or casting vote. We agree with the views expressed in the last five lines of paragraph 52 that there should not be in the new Statute any counter-part of sub-section 1 of Section 50 of the Government of India Act, but we think that it should be within the power of any Minister to ask for a note of dissent to be recorded and subsequently to write a minute of dissent.

19. With regard to the powers of the Governor, we agree, as we have made clear in our introductory remarks, that in certain matters safeguards are necessary, and that there is no other way of securing them except by conferring power on the Governor in these special and restricted cases to require action to be taken otherwise than on the advice of his Ministers.

20. First as regards the authority under which he will act, we observe that it is proposed in paragraph 50 that he will be subject to the superintendence, direction and control of the Governor General; and from paragraph 350 it appears that in these matters the Governor General will act under the orders of the Secretary of State on behalf of Parliament, but that Parliament will restrict its powers of interference in provincial matters to those subjects in which the Governor is given an overriding power. We agree to these proposals, but observe that the third item in paragraph 50 is hardly a case for an overriding power but really for a power to secure appropriation for a liability of Government in respect of non-voted expenditure. This can perhaps be secured without over-riding powers, merely by making such expenditure a first charge in a provincial budget. It has been urged that the drafting of the fourth of the subjects mentioned in paragraph 50 will have to be carefully worded to prevent the reintroduction of the power of Parliament over the whole provincial field. We assume that its real meaning is that when the Governor General in Council had addressed the *local* Government as regards the matters within its sphere, enumerated in paragraph 182, and has elicited no response or unsatisfactory replies, if the matter is sufficiently serious, the Governor General in Council will move the Governor General to address the Governor to get to grips with his Ministry or use his special powers. This might involve the stage of advice to his Ministry or dismissal of the Ministry if it disregarded advice, but it would also include a discretion to override the Ministry by an order addressed to the executive agency concerned to have certain action taken or to desist from certain action relating to matters enumerated in paragraph 182. Subject to these observations, we agree to granting the Governor an overriding power for the five purposes enumerated in paragraph 50. To these we could add that recommended in paragraph 50 of the official Memorandum

to the Simon Commission of securing the financial stability of the province. We observe that this course is recommended in paragraph 99 of the report of the Punjab Provincial Committee, and we think that the issues are so important and the damage that might be done by ill-considered action so irremediable that no theoretical consideration should stand in the way of these safeguards. We do not, of course, suggest any powers such as now exist for holding up of individual new schemes or restoring grants (except in an emergency as contemplated in the Commission's report) for special reasons or for carrying on departments. Interference of this kind would react, however salutary it might appear in the personal view of the Governor, on the reality of responsibility. What we have in view is some power to defer too hasty actions in the interests of the larger issues of financial stability in such cases as relinquishment of substantial revenue or the acceptance of large schemes involving progressive recurring revenue expenditure which could clearly only be financed eventually by recourse to extraordinary receipts or loans. There is, of course, a grave danger of severe pressure on the Ministry to abandon revenue, particularly land revenue and water rates.

21. Finally, we agree to the proposed powers given to the Governor in paragraph 65 to meet a breakdown of the Constitution. The Governor, after due consultation with the Governor General, should be final judge of the existence of an emergency.

B. *The Provincial Legislature* (*Chapter* 2).

22. *Paragraph* 67.—We agree that the maximum life of provincial Councils should be five years.

23. *Paragraph* 68.—We consider that the proposed size of provincial Councils of between 200 and 250 is, so far as the Punjab is concerned excessive at this stage. It will be open to the Council to enlarge it later, if need is felt, under the provisions for subsequent constitutional revision. The Punjab Council at present consists of 23 nominated members, 64 elected from ordinary constituencies, and 7 elected from special constituencies. We consider that the number elected from general constituencies should not exceed 150 and the actual proposal, which we make later on, provides for 124 only which with the addition of 10 special constituencies gives the House 134 members. We see no useful purpose which would be served by making the Council larger, and, on the contrary, think that such an increase of size might result in deterioration in the quality of members returned. In the Punjab, with few large industries and with the bulk of the land held by small peasant proprietors, the number of men of a responsible character who have leisure to devote time to work on a legislature, is few.

24. On the vexed question of communal representation we would invite a reference to the views that we expressed in our official

Memorandum Part IV, paragraph 7 *Sqq*. In that Memorandum we put forward various alternatives between which we found ourselves unable to make a definite choice, owing to the existence of doubtful factors, such as the final claims of the various parties in respect of franchise, and the need of giving more precise indication as to what the extension of the franchise proposed involves in itself. We cannot find anything in what has passed since we wrote this Memorandum to enable us to come to a further conclusion. We still find the claims of the various communities apparently irreconcilably opposed in respect of numbers as well as on the question of communal electorates; and while we have explored certain statistics indicating the possible result of doubling the number of electors, we are still not in a position to say with certainty what will be the effect on the electoral roll. We are, therefore, forced to accept the conclusion of the Commission that in the absence of an agreement between the various communities concerned the principle of communal electorates must stand. We postpone to a later paragraph consideration of the number of seats to be allotted to the three major communities.

25. *Paragraph* 78.—With regard to the depressed classes we are inclined to think that the figures given in paragraph 58 of the first Volume of the Commission's report, namely 2.8 millions of the Punjab are exaggerated. Further enquiries made about a year ago by the Punjab Government put them under 2 millions, of whom a million and a half are composed of *Chuhras* and *Chamars*. We also find that these classes are not a pressing problem in the Punjab. Some of them will come into general constituencies through our new proposals for enfranchisement of tenants, and some will get representation in a special Labour Constituency. We do not think it possible to have a special constituency for depressed classes, and believe that their interests would be best served by one nominated representative who might ordinarily be chosen by the Governor from a panel submitted by associations which represent these classes.

26. *Paragraph* 81.—At present there are two non-official European members of the Punjab Legislative Council, one nominated and one elected by the Commerce constituency. This constituency is no longer likely to return a European, and we think that in future Europeans should have two seats in a separate electorate.

27. *Paragraph* 83.—There is at present one nominated representative of the Anglo-Indian community. We now think that there is no need for separate representation for this community, the voting strength of which is low, but the Anglo-Indians should have a choice as to whether they should merge in the category of Europeans or in the general constituencies.

28. *Paragraph* 84.—We think that Indian Christians should have one seat reserved, but are not at present prepared to express an opinion as to whether this should be by a reservation or by a special electorate or perhaps by other method.

29. Turning to special electorates, there are at present 7—3 for landlords, 1 for Baloch Tumandars and 1 each for University, Commerce and Industry. We are impressed by the fact that, with the extension of the franchise to a portion of the tenantry and a lowering of the rural property qualifications, landholders of the class which stood for the special constituencies may have difficulties in securing representation. We consider them an important interest in this Province, and as we do not propose to have a Second Chamber, we would retain special representation for them in the Council. According to the numbers of those qualified in the landlord constituencies, the proportion of seats should be 2 Muslim, 1 Sikh and 1 Hindu seat. The Baloch Tumandars are a problem. It is clearly wrong to look at this as a special electorate of 9 persons only. The Tumandar by Baloch custom is the acknowledged head of his tribe. His tribe lies scattered partly within and partly without the British Indian administrative boundary; and the Tumandari system plays an important part in the defence of the frontier and the peace of this portion of the Punjab. Increasingly Punjab cultural and material amenities are spreading in the Punjab transborder and attaching these wild people to the province through their Tumandars by an influence of far greater value than the fear of armed forces. The Balochis within the administrative boundary have some chance of representation in the general electorate of the Dera Ghazi Khan district. Those without in the tribal area, numbering more than 30,000 have none; and it seems to us important to keep them represented through their acknowledged leaders. We would, therefore, retain the special seat for the Baloch Tumandars. We would retain the University and Commerce constituencies; but we would eliminate the Industry seat, which has not given in the past any material essentially different from that representing Commerce; we think it necessary to add a seat for labour which has become important of recent years, and as we have stated above, we propose adding one seat to represent the depressed classes.

30. We are now in a position to deal with the question of communal representation in the Legislative Council. There are at present 64 Ordinary and 7 Special constituencies. Of the ordinary seats 20 are assigned to non-Muhammadans, or (as we would prefer to express it for convenience) to Hindus, 32 to Muhammadans and 12 to Sikhs. To these we may add some special seats taking account of the community by which the seat has been invariably filled—

Hindus (Landholders general, University and Industry)	3
Muhammadans (Landholders and Tumandars) ...	2
Sikh (Landholders)	1

The elected communal composition of the Council has been therefore—

Hindus	23
Muhammadans	34
Sikhs	13
Total	70

The position of the Sikh creates a special difficulty. On historical grounds, and by reason of their contribution to the defence of the country, it is felt that their small minority (11 per cent. of the population) should continue to have some distinct weightage in the Punjab Council. They will not get representation in any other province; and under the Commission's proposals their representation in the Federal Assembly will depend on the amount of their representation in the Punjab Council. In the latter the Muslims look upon them as an ally of the Hindus, who though in a minority are a substantial minority (31 per cent. of the population). The Muslims feel that in allowing weightage the result should not be to deprive them (55 per cent. of the population) of a majority over Hindus and Sikhs combined. The Muslims point out that in giving weightage to Muslim minorities in other provinces, the process has not endangered a substantial and continuing Hindu majority. The Hindus on their part urge the effect upon their interests of a perpetual Muslim majority in the Punjab and the need for the protection of their minority. It is, therefore, a very difficult matter to satisfy the sentiments and aspirations of the parties concerned, while at the same time giving effect to the special considerations which apply in this Province to the Sikhs; but we feel that we cannot go so far as the Commission in paragraph 85 for it seems to us illogical to deprive a population majority entirely of their position.

31. We now put forward a proposal to make the following additions to the general constituencies :—

	Previous.		*Addition.*		*Total.*
Hindus	20	+	16	=	36
Muhammadans	32	+	31	=	63
Sikhs	12	+	11	=	23
Europeans	—		2	=	2
	64		60		124

thus giving a total of 124 for general constituencies. The addition which we make is to double the existing representation in general constituencies but to deduct from the addition the figure which each community may hope to gain from the special constituencies which we propose. We have added two to the Muslim addition to secure the principle, to which we have alluded in the closing

sentence of the previous paragraph. We now add the figures for special constituencies which may be allocated to respective communities as follows :—

Hindus (University, Commerce, Depressed classes and landholders)	4
Sikh (Landholders)	1
Muhammadans (Landholders—Tumandar seat) ...	3
Christian	1
Labour (indeterminate)	1
	10

The total composition of the House will thus be :—

Muhammandans	63+3=66	
Hindus	36+4=40	
Sikhs	23+1=24	
Europeans	2	2
Christian	1	1
Labour	1	1
		134

32. We do not pretend that this arrangement will give full satisfaction to all (or perhaps any) concerned; but we think it fair, because—

(*a*) it gives Muslims, the majority community, a majority of 2 over Hindus and Sikhs combined (66 : 40 : 24);

(*b*) eliminating the 2 European seats which may be taken to have no communal bias, in the remainder of the House the percentage will be Muslims 50, Hindus just over 30, Sikhs just over 18 and others (Christians and Labour) under 2.

(*c*) In the House as a whole, taking in all seats, the proportion will be, Muslims just over 49 per cent., Hindus just under 30 per cent. and Sikhs just over 18 per cent.; and on their present voting strength this gives to Muslims a decided increase while the representation of Hindus and Sikhs will be below that which their present voting strength might warrant.

(*d*) In sum total Muslims get more than their present voting strength but less than their population strength. Sikhs get more than their population strength but less than their present voting strength. Hindus get slightly less than either, and suffer in this respect by giving weightage to another minority community which often votes with them, but, on the other hand, they are not exposed to the effective Muslim majority which the population figures would give over Hindus and Sikhs combined.

33. We are not yet able to say in what proportion the various communities will be represented in voting strength in the new franchise, but we observe that in the existing House the average number of urban electors between constituencies of the three communities shows very little variation (Memorandum Part I, Chapter 2, paragraph 26), and it is perhaps reasonable to suppose that with the lowering of the franchise the state of affairs will not be materially altered. As regards the rural constituencies, we are not in a position to give any accurate figures. We have so far explored an extension of the landowners' franchise to landowners and Crown tenants paying Rs.15 land revenue and over, which would increase the rural voters from 5,71,000 to 8,49,000. In that event the number of voters per general constituency as compared with existing figures will be as follows :—

	Present.	*Proposed.*
Hindus	12,055	10,314
Muhammadans	9,500	7,320
Sikhs	14,300	11,143

The effect, therefore, of lowering the franchise would probably be to some extent to decrease the proportionally larger number of Sikh voters, and this tendency will possibly be accentuated by a further proposal to enfranchise tenants, as to which we have at the moment no figures.

34. *Paragraph* 86.—We agree that the official *bloc* should disappear, but we think that the legislature should include a Law Officer to assist in matters of drafting and other legal questions. This officer should be nominated and should not exercise a vote, but should be entitled to address the House.

35. *Paragraphs* 87, 88 *and* 89.—We retain the special representation of University and Commerce seats and add Labour on the ground that only by so doing can we assure that interests which are vital to the growth of the province have a representative voice.

36. With regard to the great landlords, as we have already set forth, we are definitely of opinion that their seats should be retained irrespective of the number of the land-owning class which may succeed in entering the Council through the general constitencies. We think that the proposal to introduce members of this class by nomination would be invidious, opposed to the general elective principle, and likely to expose members thus nominated to the imputation of being not representatives of the people. One argument for the retention of these seats, which applies also to other special seats and has in our opinion great force, is the desirability of providing what may be termed safe seats, such as in the United Kingdom are provided by the Universities, the City of London and constituencies with an overwhelming party majority.

37. *Paragraphs* 91 *and* 92.—We are in general opposed to nomination of members, and the foregoing proposals have confined

the remote possibility of this procedure to cases in which it may be found impossible to find a constituency, namely, the depressed classes and possibly Indian Christians and Labour.

38. *Paragraph* 93.—We have already expressed our view that the Cabinet should be selected from the Legislature, and it will, therefore, be necessary to maintain the rule that the Minister, who is not already a member of the Council, must secure election within a period of six months.

39. *Paragraph* 95.—We are generally in favour of the proposal by which provincial legislatures will be enabled to amend their constitutions by resolution as proposed in the report.

40. *Paragraph* 96.—The question of the spheres of Central and Provincial legislations will be dealt with later.

41. *Paragraphs* 97 *and* 98.—We agree in principle that the Governor's power of certification in legislation should extend over the same field as is covered by his overriding powers to control executive action. We have in a previous paragraph suggested that to that field it may be necessary to add the sphere of financial stability. In relation to the legislature a question that arises is whether an additional corresponding power should be exercised for the purpose of securing financial stability in the shape of restoring grants. The necessity might arise as regards provision for assessment or audit staffs. In certain special circumstances the Commission propose an emergency power for the Governor to restore rejected demands for grants and to certify legislation if the course was essential for the interest of the province. While this power must for obvious reasons remain, as far as the financial field is concerned, it (no doubt) is a question whether, in circumstances not warranting the special action, this would not be better expressed by specifically allowing the Governor to restore grants if in his opinion this course is necessary to preserve financial stability. If this principle is introduced, there will, it may be argued, be probably less occasion to adopt the extreme course of certification in the general interests of the province, a course which should only be adopted in the event of a breakdown of the constitution.

C. *The Franchise* (*Chapter* 3).

42. We are in favour of the following principles to regulate the extension of the franchise :—

(1) It is desirable that the disparity between the percentages of enfranchised urban and rural population respectively should be reduced. At present 12 per cent. of the urban male population is franchised and only 5 per cent. of the rural.

(2) It is considered desirable to enfranchise a portion of the tenants of rural land. At present the rural franchise is based partly on certain special qualifications, such as that of being a

headman of a village or a retired soldier, but chiefly on possession of land paying Rs.25 land revenue. Apart from the small class of occupancy tenants, the rural tenants have no vote.

(3) As regards the enfranchisement of women, we are of opinion that matters should be left as they are, that is to say, they should continue to have the same property qualification as men in spite of the fact that the number of women which is thereby enfranchised is very small. It is a matter where the growth of public opinion should be left to have play. It should be left open to the legislature to pass a further measure of enfranchisement of women if they so desire after the expiry of the fixed period.

(4) We have considered the proposal of an additional franchise being given to persons who have passed the Matriculation standard of any University, but have not found ourselves able to accept it.

43. Finally, we consider that applying the above principles the property qualification should be lowered, but not so far as to result in more than doubling the present number of voters. The first principle will be preserved if the number of rural voters were doubled and the number of urban voters increased by half. The present number of rural voters is 5,71,000, of whom 3,50,000 are landowners paying revenue of Rs.25 and upwards. The addition of voters paying between Rs.15 and Rs.25 would add 2,61,000; total, 8,32,000. This falls short of doubling the existing number of voters in rural constituencies by 3,10,000. While this number, if assigned to tenants-at-will, might be excessive, the further addition of landowners, paying between Rs.10 and Rs.15, would add 2,69,000, which would leave only 41,000 for tenants, which would be too little, assuming that the maximum number of rural votes contemplated will be 11,42,000. It is possible that the lowering of the landowners' franchise to Rs.12 might give a fair allotment of the balance of 3,10,000 to tenants, but the final determination of the question can only be made when we have figures showing the effect of the enfranchisement of tenants. This will be a particularly difficult question in the Punjab, where cash rents are the exception and where it is not the practice to record in the revenue papers the cash equivalent of rents paid in kind.

D. *The Second Chamber* (*Chapter* 4).

44. We consider that the balance of argument is against having a second chamber in the provinces—at any rate so far as the Punjab is concerned. We remain of the opinion that a Legislative Council expanded even to the moderate dimensions we have proposed will absorb for some time to come all that we can reasonably expect to secure in the way of persons fitted for the exercise of legislative functions; and that the constitution of a second chamber would deprive the popular chamber of talent which it needs, and tend to make it more unstable. At the same time we are not unaware that

a provision of this kind may be needed in other provinces which are larger and more populous and where persons connected with special interests, such as Commerce, Industry and large landed interests are to be found in greater numbers; and if in a province, where a need for an Upper House is felt, the power is not given and used now, it seems unlikely that, as time goes on, in the course of constitutional development a single legislative chamber would at a later stage impose on itself the incubus and check of an Upper House, though we believe there have been instances of this kind in some other countries. It is possible that an Upper House might also obviate in some cases the use by the Governor of his special powers regarding legislation. For these reasons we would not exclude the discretion of having an Upper House in a province, though we are of opinion that this would and should not be used in this Province.

45. Leaving the matter open, it may be urged, will encourage dissimilarity in structure between various provincial Constitutions. This, however, seems bound to occur in any case. Probably the numbers in provincial legislatures will differ from the start; and assuredly after the first 10 years have passed, the discretion for effecting constitutional revision by resolution will result in some legislatures being constituted on a broader or narrower basis than others.

46. We think that the provision in paragraph 117 of an expert drafting body is hardly a matter of constitutional importance, and can be met by rules of business and procedure. We have, however, in another place suggested that the legislature should include a legal expert.

IV.—The Backward Tracts.

Part III, Chapter 2.

47. In the Punjab the Pargana of Spiti is included in the wholly excluded and the Lahaul Tract in the partially excluded areas. These tracts are not populous; they may still be described as backward. They are cut off from the Kangra district for six months in the year by high snow-bound passes. In spite of these features, however, there seems to us to be little reason any longer to exclude them from the processes of the ordinary administration. Of late the communications with the Kulu Valley, where the headquarter of the Sub-Division in charge of these areas is located, have greatly improved; and we have observed that all the Ministers have visited the valley in the summer months in recent years. We see no reason now to treat these tracts differently from the rest of the Punjab. The policy in the Punjab since the reforms has been increasingly to extend to the more remote and backward parts of the province those opportunities and those amenities, as, for example, facilities for education, medical relief, public health veterinary service and agricultural improvement, of which the more central and developed

parts of the province have long since been in enjoyment. We see no reason to doubt that, if these tracts are included in the charge of the unitary responsible Cabinet, they may expect to receive a sufficient degree of attention and help. Some difficulties may occur in their representation in voting in a constituency, if elections take place during the winter months; but this situation, though anomalous, is not necessarily a bar to our suggestion; and we believe that the tracts in question have more to gain than to lose by the course we advocate.

48. Before we leave this subject, we desire briefly to refer to the tribal area on the borders of the Dera Ghazi Khan district. The history of this area is described in paragraph 4 of Chapter I of Volume I of the Memorandum prepared for the use of the Simon Commission, and the method of the administration is examined in paragraph 25 of the same Chapter and in paragraph 46 of Chapter VIII of the same Volume. The system has been eminently successful, and no other or better method of political hegemony can be suggested for the control of the tribes living in and beyond the Suleiman mountains, outside the administrative frontier of British India; but we feel that sufficient financial responsibility has not been shouldered by the Government of India as regards their obligations for frontier defence in this area. The mountain frontier is 240 miles long; and towards the expenditure which the political control of the tribes involves the Government of India only pays the Punjab Government a sum of Rs.42,440 annually—a very meagre amount as compared with the scale of payments in which the Government of India are involved in their own administration of the adjoining areas of Balochistan and the North-West Frontier Province between which the Dera Ghazi Khan frontier is wedged. Besides indirect charges, into which we need not enter, the Punjab Government pays Rs.1,76,000 a year for the Border Military Police and Rs.72,000 for the Baloch Levy and sacrifices in annual revenue over Rs.1,30,000 paid in jagirs and in arms to Tumandars.

V.—The Centre.

(Report Part IV.)

A. *The Federal Assembly.*

49. As we have explained in the introductory portion of the Memorandum, we are in favour of the system of indirect election by the provincial Councils. As far as the Punjab is concerned, we believe that the method of proportional representation advocated in paragraph 139 will secure fair representation both for majorities and minorities, though not perhaps of some special interests, and that the working of this system is more natural and automatic in its adjustments than resort to the alternative of reserved seats. At the same time if the total number of members in the Federal Assembly

were reduced to a figure lower than that stated in paragraph 140—a possibility to which we will later refer—we believe that in the interests of minority representation we should have to adopt the latter method.

50. We do not think it will be possible for a person to be member of both legislatures at one and the same time. If a member of a provincial Council is elected to the Federal Assembly, he should resign his seat in the provincial Council. We agree that the allowances to be paid to members of the Federal Assembly should be non-votable and should fall on provincial expenditure. We approve of a fixed life for 5 years. In our view, subject to an alternative to which we shall refer in discussing the Central Executive, 250 would be a suitable number of members.

51. Considerable doubt was felt as to whether the communal proportions envisaged in paragraphs 143 and 145 would actually result. As regards the latter paragraph, the calculations seem to involve the assumption that all the nominated officials will be Europeans, which is very improbable. There is a strong feeling among Muslims that their representation should be brought up to 33 per cent.

52. The method advocated proceeds mainly on Federal lines, and tries to secure that the main classes of importance in each Federal unit will receive (whether they are in majority or minority) a due share of representation. As regards communities, Hindus, Muslims, Sikhs (or sub-divisions, e.g., Brahmins, Non-Brahmins and depressed classes), this is likely to be the case. Nor is it unlikely that special interests, such as Commerce, Finance, Large Landholders, &c., will also be fairly adequately represented; but we are very doubtful whether the same expectation will hold good as regards Labour. This is a Central subject; and it seems likely that its problems, as time goes on, will occupy increasing attention in the Federal Assembly, and it appears to us important that it should be adequately represented. Its representation can be secured by nomination in the Council of State; but its presence in that House, mainly concerned in revisory functions, will not secure quite the desired results.

53. As regards the suggestion in paragraph 146, the alternative method of filling a vacancy by holding an election and reserving the seat for the community to which the member vacating the seat belonged, commended itself to us.

B. *The Council of State.*

54. We are in favour of retaining a second Chamber in a Central Legislature for a country of the size of India. We agree that its term should be seven years. As regards qualifications of members, we are generally in accord with the observations in paragraph 151. In the case of *ex*-Government servants the requirement might be

that the person concerned was drawing emoluments of not less than Rs. 3,000 per mensem at the time of retirement. As regards the number of members, we feel that if the numbers of the Federal Assembly are brought up to the figure suggested in paragraph 140, the numbers of the Council of State should be advanced to 120. If this is not done, the Council of State cannot preserve the same weight as it now possesses in a joint session. If our suggestion is adopted, 66 members might be elected and 54 nominated, of whom not more than 20 might be officials. We approve of the suggestion for allocation of seats which proceeds on the basis of common and equal interest of units and not of population figures as in the case of the Assembly.

55. We are divided as regards the method of election. With a specially highly qualified electorate, such as already exists for the Council of State, there is much to be said for direct election. On the other hand desire for uniformity and for emphasis on the Federal nature of the structure points to indirect election as in the case of the Federal Assembly. We assume in this case that communal inequalities will be corrected by nomination.

56. We do not propose to offer any observations on the problem of the relation of Indian States. If, however, they elect to come into the Federation to the extent of seeking representation in the Central Legislature, we feel that such representation could be given to them with more propriety in the Council of State, mainly a revisory body, than in the Federal Assembly; and that in arranging for their representation the extent of their representation should not go beyond providing for voting strength not greater in proportion to British Indian votes in the House than their relative population strength to British India.

57. As regards the powers of legislation of the Central Legislature, some of our colleagues felt that the limits of the field of the power of the Central Legislature in the presence of provincial autonomy would need more strict definition in Statute than heretofore, and that it should be made clear that the Centre had no concurrent or residuary power except in cases coming within the four walls of the Statute. It was suggested that in paragraph 154 under the head *d* (*ii*) the power to legislate in the direction of repeal or emendation of a provincial law should be confined to cases affecting other provinces or central subjects only. In particular it was desired that safeguards should be provided against the alteration of personal or customary law. The principal enunciated at the end of paragraph 155 was generally approved. While in full sympathy with the desire to protect religious, personal and customary rights and prevent intrusions into provincial domains, we feel that the powers with which the Governor General is armed, will operate sufficiently effectively to prevent any of the untoward effects of Central legislation which are feared. We admit that the burden of responsibility placed upon the Governor General in this respect

and in the matters referred to in paragraphs 156 and 157 will be exceedingly onerous, but we have no doubt that the responsibility will be wisely and promptly exercised, where required. It would also, we think, be reasonable to expect that the change in the composition of the membership of the Lower House may make the situation somewhat easier as regards the emergence of Bills from the Federal Assembly which are not in accord with the general sentiment of provincial legislatures.

58. We deal with the financial powers of the legislatures and the division of resources between the Centre and the provinces in another part of this Memorandum.

C. *The Governor General in Council.*

59. We now turn to the difficult subject of the Central Executive. Our colleagues have discussed the various alternatives ranging from handing over forthwith all subjects except defence, foreign affairs and political relations to responsible Ministers chosen from the Central Legislature with a provision to transfer these three excluded subjects to responsible Ministers after a term of years, to variants such as giving discretion to the Governor General to include some officials also in his Cabinet, the remainder being selected from the Federal Assembly. Generally speaking, some measure of responsibility to the Central Legislature in the Cabinet at the outset combined with some element of dyarchy or dualism or exclusion as regards certain subjects is advocated.

60. We have given the matter most careful thought; and while we hold that the eventual development at the Centre must be in fulfilment of the letter and spirit of the declaration of August, 1917, we are impressed with the insuperable difficulties of adopting a scheme of full responsibility in this transitional stage, during which the constituent provinces of British India are being established in their new and wider fields of autonomy in provincial affairs. The other difficulties of the transitional period have been sufficiently clearly stated by us in paragraph 6 of the introductory section of this Memorandum. To us the clear need during this period is of a stable executive Government. Admitting this need—and we consider it a real need—we see no real half-way house in between a scheme as suggested by the Commission where there will be a Unitary Cabinet, swayed and inspired by the Central Legislature and with " responsive " elements, but responsible to the Secretary of State and Parliament, and a Unitary Cabinet fully responsible to an Indian Central Legislature, which is the eventual goal but which we consider not to be practicable in this transitional stage; and while we hold that any tardiness on the part of the States should not prevent the completion of the best scheme of Federation and responsible institutions for British India at the Centre, the reality of the effect of federation and the impact and influence of

the provincial units on the Centre has admittedly still to develop and make itself felt before the step to completion can be taken. Indeed, the completion can only fittingly take place when it is established that the full responsibility in provincial affairs in the constituent units has justified its institution.

61. While we admit that there is the force of Indian sentiment in favour of the introduction of some responsibility at the Centre, that such a step might ease political tension and that there is advantage in placing the critics of the Central Government in the position of shouldering some of the odium of the difficulties of administration themselves; yet at the moment it seems to us that sufficiently large risks are being taken by the wholesale transfer of responsibility in the provinces, and simultaneous risk should not be taken elsewhere. For example, to take one instance out of several that occur to us, when Finance is being handed over to responsible Ministers in the provinces, if simultaneously the finance policy of the country which depends largely on borrowings in and out of India, is freed from Parliamentary supervision, there may be a shock to public confidence. Later, if it were established that the transfer of Finance in the provinces had involved no catastrophic results and if, meanwhile, satisfactory Reserve Bank arrangements had been made, the change as regards Finance in the Central Government could be carried out.

62. We, therefore, adhere to the plan of the Commission for this transitional stage. The next step after this and prior to complete devolution may well be a very full measure of responsibility reserving only the army, the States and external affairs under the control of the Governor General.

63. In order to make this transitional scheme work smoothly, we consider that, although the Central executive will clearly remain responsible only to the Secretary of State and Parliament, a responsive spirit should animate the position and the Central Legislature should feel that the angle of view of the Federal Assembly is given due weight in the treatment of such subjects as Commerce and Finance. The situation would be assisted by the use of the discretion, suggested in paragraph 173, vested in the Governor General of including elected members of the Central Legislature in his Cabinet and by gradually increasing, so far as may be possible, the system of convention or a practice by Parliament of refraining from intervention in purely Indian affairs, which is discussed in paragraphs 351 and 352.

64. Some of our colleagues have suggested that if the executive is to be responsible to Parliament and not to the Central Legislature, its members should continue to be appointed as at present, that is by His Majesty on the advice of the Secretary of State; but we consider it to be of the essence of the Commission's proposals with a view to increasing a responsive tone in the executive at the proper moment, that the Governor General, who will

have his hand on the pulse of the Indian situation, should be unfettered in exercising the discretion and initiative in making appointments of the nature suggested in paragraph 173.

65. We are in agreement with the suggestions made that there should be included in the Governor General's Council a member with a light portfolio who would be charged with the primary function of leader of the House. Among other matters which might come under his special purview are the steps taken to secure a better understanding among the public of the policy and administrative programme of the Government on the lines discussed in Chapter 5 of Part IV of the Report. Incidentally, we may observe that we find ourselves in complete agreement with the suggestion on page 166 with which the Chapter closes.

66. Very considerable use has been made in this Province of Standing Committees of the legislature. While in the past at the Centre the Public Accounts Committee with its statutory powers and the Standing Finance Committee have played a conspicuous part, we believe that, generally speaking, the Standing Committee system has not been greatly used. We believe that in the new Constitution its use should be extended and that it would help both to keep the executive informed and responsive and also create a better understanding in the Federal Assembly of the exact purport and administrative difficulties inherent in various Government measures.

67. It has been urged that in the position at the Centre, as devised by the Commission, there are great possibilities of friction and deadlock between the executive and the legislature. The Federal Assembly will be larger and the nominated element proportionally smaller than in the present Legislative Assembly. It is true that in actual composition the element of indirect election by the Federal units seems likely to return a different and possibly more temperate class of member. It is a fact also that the Commission envisage that the impact of the influence and views of the Federal Assembly on the Central executive will be considerable. Nevertheless, it appears to us to be a matter for consideration whether a smaller number in the Federal Assembly would not lessen the difficulties which may occur. The argument that in such case members would represent too large a constituency to maintain touch hardly now holds good, because it is proposed that they should be indirectly elected by provincial legislatures, which are themselves elected by reasonably small constituencies.

D. *Relations between the Centre and the Provinces.*

68. We are in agreement that so far as the limited special overriding powers of the Governor are concerned (paragraph 49) and his special powers in a state of emergency (paragraph 65), he should be subject to the superintendence, direction and control of the

Governor General and through him of the Secretary of State. We have already assumed that while the Governor General in Council will address the local Governments in regard to the subjects defined in paragraph 182, which have been specially made their concern in relation to provinces, it will not be proper for the Governor General in Council to move the Governor to act under the fourth item of the special statutory power, with which it is proposed he should be vested (See item 4 of paragraph 50). In such cases it will be for the Governor General to decide whether he should move a Governor to exercise his special power.

69. As regards the field defined in paragraph 182, the seventh and eighth categories might well be considered to be included in the first. One of our colleagues considers that the fourth item (raising of loans) is stated in too general terms. We will return to this point in dealing with Finance.

70. We welcome the flexibility which the suggestions in paragraphs 184 to 186 introduce, and believe them to be in the general interest and to mutual advantage. One of our colleagues feels some doubt whether a system of grants-in-aid from the Centre to the provinces may not prove demoralising to the latter, and whether in the end this may not involve some dictation by the Central Government as regards the recruitment of Agricultural, Educational and Public Health Services. So far as we can judge, the giving or taking of grants is to be a purely voluntary matter on both sides, and will rest entirely on the basis of agreement. In these circumstances we see no reason to apprehend any undesirable encroachment in provincial spheres.

71. With reference to paragraph 190, there has been some doubt in the past as to where residuary powers reside, i.e., what authority has the discretion to deal with matters not specifically defined as falling within the Central or Provincial fields. Unless these powers are retained by Parliament, we consider that doubts should be set at rest by declaring that they vest in the provincial Governments.

VI.—The Question of Defence and the Army.

(Report Part V.)

72. It is with some diffidence that we offer observations on this subject. Our excuse is that we believe that the proximity of this Province to the vulnerable North-West Frontier makes the people of the Punjab perhaps more conscious of the need of an efficient army and of the imperial implications of the defence problem than those of some other provinces, and that the connection of the military classes of the Punjab with the Indian Army, in which they form a large and important element, makes the subject one of special interest to various classes in this Province.

73. We have already stated our general view as to the fundamental requirements of defence and internal security in paragraph 7 of Part I of this Memorandum.

74. We have not found the scheme propounded in Part V of Volume II of the Report easy to understand, as apart from the arguments in support of the principle, it is only sketched in general terms; but its main features seem to be :—

(i) that the forces composing the army in India should no longer be under the control of the Government of India, but would be under imperial authority, i.e., that of the Viceroy acting with the Commander-in-Chief (paragraph 209, Part V);

(ii) that the Central Legislature (as now) would not vote supplies for the army, though a sum would be charged on Indian revenues under the certificate of the Governor General. This would apparently be a fixed sum subject to revision at intervals, and some hint is given of the possibility of some contribution from imperial funds (" an equitable adjustment of the burden of finance ") (paragraphs 209 and 210).

(iii) The Commander-in-Chief would no longer be a member of the Cabinet or in the legislature (paragraph 170).

(iv) Questions of defence, so far as they come before the legislature, would be dealt with by a Civilian (the Army Secretary or the Leader of the Federal Assembly) (paragraph 170).

(v) The touch of the members of the Federal Legislature with defence and army questions would be maintained by a Committee on Army Affairs on which the Central Legislature and the Indian States would be represented (paragraph 210);

(vi) There would be steady and sympathetic progress, subject only to the overriding requirements of military efficiency, with the Indianization of the army (paragraph 211);

(vii) There is a possibility (not fully explored) of the Indian Government, in co-operation with the Central Legislature, embarking on the organization, training and equipment of certain military forces independently paid for and controlled, though the probability of financial resources for such a parallel project appears remote (paragraph 211). As regards the last item the probability seems so remote that for practical purposes it appears to us that this suggestion may be disregarded.

75. An inseparable feature of Indian political aspiration is a conviction that its ideals of a fully-governing India can only be realized in the end if it sees clearly in front of it the eventual emergence of a Dominion Army in its own command and control. At the same time it has been clearly recognized by many schools of Indian political thought that during a transitional period there are some things which it may be found desirable at the outset to remove for the time from the sphere of a responsible Central Government, or in regard to which the Governor General may need to be invested with special powers, as for instance, Foreign

affairs, Relations with Indian States and Defence. The difficulties which the Commission feel in placing the army under a unitary Cabinet, with joint responsibility, have been fully explained by them in the arguments which end with paragraph 208 of Part V. This Cabinet, as we have already seen, may include at an early date "responsive" members of the Federal Legislature (paragraph 173), and its eventual development must no doubt proceed towards the ultimate goal of representation and responsibility described in the declaration of the 20th of August, 1917. though this part of the picture, as explained in paragraph 3 of this Memorandum, has not yet been painted-in. The Commission make it clear that the inclusion at the outset of an official charged with responsibility for the army in the unitary Cabinet would not overcome their difficulty. There is thus, on the one hand, some common ground of agreement; and while there is likewise some conflict, in our opinion that divergence between two angles of view is not insuperable.

76. The common ground is the admission that in the transition period exclusion of the army in India from control by Central Government and Legislature must occur in some form or other. The difference is as to what intention is in the meanwhile to animate the treatment of the subject during the transition period. Indian political opinion desires to be convinced that decisive steps will be taken to speed on Indianization and the creation of a Dominion Army. It also desires assurance that the Indian Central Legislature and Ministry in the meantime and during the process will not be divorced from touch with the facts regarding the organization, cost and management of the army in India, and that its connection with army affairs will be sufficiently intimate to secure that in the ultimate stage, responsible Indians will be possessed of the requisite knowledge and familiarity with defence policy to enable their Central Government in the fulness of time to take over the responsibility and control of a Dominion army and defence.

77. There is no lack of appreciation that an effective Indianized Dominion Force will take time to create, or—in the Punjab at any rate—that an inefficient defence force, however seductive and soothing its presentation on paper may seem, is money wasted on an ineffective insurance in face of a real frontier menace. It scarcely requires a slight effort of imagination to understand that with the most senior Indian King's Commission officers in regular Units now at a standing of only 8 or 9 years' service and only now beginning to be eligible to qualify for admission to the Staff College, and with Indianization more backward still in the technical branches (though admission to Woolwich and Cranwell is now open), the evolution of a number of largely Indianized units officered and commanded mainly by Indians, organized into Brigades and Divisions with a considerable Indian element on the

staff, is a matter which will take time. It is also understood that no shorter time can conceivably suffice to educate and qualify Indians to attain these capacities than is needed for the attainment of a similar degree of capacity and experience in these ranks by their fellow British officers. Yet there is a feeling that sufficient efforts are not being made to increase the intake and proceed with the project on a larger scale. The eight Unit scheme seems to be a jejune response to India's impatience to get on with equipping herself for the responsibility of her own defence. No doubt the answer is that, keeping in mind the supreme need of efficiency, satisfactory officer candidates are not forthcoming under the present system in sufficient numbers. It is, however, believed that generally speaking it has been found possible to accept as good material a satisfactory proportion of the youths trained at the Dehra Dun Military College. Opinion in this Province, which has good reason to believe in its stock of military material, would welcome the establishment of other Colleges elsewhere on more economical lines with this purpose in view; and it is believed that, given their establishment on a basis where the expense to parents would be on a more modest scale than is the case at present, enough youths of the right type would be forthcoming to fill all available vacancies at Sandhurst and later possibly to feed an Indian Sandhurst. While we cannot pretend to have the knowledge to dictate on so technical a subject, we wish to lay emphasis on the need for exploring the line of progress which we have suggested. It is in the families of the small squires, which have honourable connection with the Indian Army, often extending over three generations, that real material can be found. This class has not the means to pay for expensive education for their sons; but if institutions can be provided, which specialise in preparation for Sandhurst, &c., and supply a sound education with ample attention to character formation and discipline on inexpensive lines, this class will gladly avail itself of the opportunity to fit its sons for a career in the Army. Public opinion here will not rest content with the vague and general terms of the Commission's recommendations that " we consider that this obligation (Indianization) should continue to be honoured in the letter and the spirit, if the army in India were to pass, as we suggest, out of the control of the Government of India."

78. As regards the other point, transitional requirements would be met by making the Committee on Army affairs a reality. Indian members of the Governor General's Council should be included in it as well as members of the Central Legislature; and the points, on which its advice will be sought, should range over a field sufficiently wide to keep it in close touch with the realities of problems of defence and army organization. Nor should there be undue restriction as regards the scope of discussion of defence problems, within which the Central Legislature, within reasonable

limits, should have discretion to debate on such measures, with due provision through powers vested in the Governor General to preserve for Parliament complete control in ordering the conduct of defence measures. On the occasion of such debates it might be desirable to nominate military experts to expound technical considerations.

79. The only comments we have to offer on paragraph 213 of Part V is that the Commission appear to have forgotten the provisions of Chapter IX of the Code of Criminal Procedure. These provisions give a discretion to a magistrate where a disturbance of the public peace has actually broken out, to call on His Majesty's army to disperse an unlawful assembly by force, and a statutory obligation is laid on members of His Majesty's forces to obey the requisition, though the manner in which they elect to do so is left to their discretion. In this case the magistrate is acting not at the dictation of the *local* Government but in a magisterial capacity under responsibility to a High Court of Justice appointed by the Crown. We consider it important that this discretion should not be altered. In practice, unless the emergency is grave and sudden and the disturbance of peace serious, the District Magistrate ordinarily refers by message, telegram or telephone to the Commissioner or local Government before making his requisition to the military for aid to civil power; but there is no statutory obligation on him to do so; and if the insistence of the seriousness of the actual disorder and disturbance of the public peace is great, it is most undesirable that his discretion should be hampered. His immediate duty, whatever the cause of the disturbance, is to restore order and peace at the earliest possible moment, and if life is to be saved and spread of disorder prevented, this can often only be done by very prompt action. The ordering of a show of military force before actual disturbance takes place, or after a disturbance, stands on a different footing, and can now only be effected by the order of the local Government; and in this case we are in agreement with the views as to the proper procedure which are expressed in paragraph 213.

80. Some of our colleagues have suggested, among two possible alternatives to the scheme of the Commission, the subjection of the Indian portion of army in India to the Central Government and Assembly's control, or the establishment of provincial militias at the call of Ministers in charge of law and order in the provinces. The first of these alternatives appears to us impracticable. Army organization rests on a basis of common staff, inspecting agencies, supplies of equipment and mobilization stores, and any attempt to separate the army into two parts for administrative purposes would be likely to prove both expensive and inefficient. As regards the second alternative, whether in the form of an embodied force or of a reserve, the proposal amounts to little more than an increase in the Police forces of the province, which it will be at the discretion

of the Minister in charge of law and order in a province, given good grounds of necessity and sufficient financial resources, to compass as part of his policy. The constitution of such a force might lessen the number of occasions on which it was found necessary to call on His Majesty's Forces in India to act in aid of civil power in internal security, but it would not in any way help to solve the main political and constitutional problem of the treatment of defence and the army in India with which we have been dealing.

VII.—FINANCE.

(Report, Part VIII.)

81. We do not propose to attempt to deal with the details of Sir W. T. Layton's scheme or to sit in judgment on them at this stage. That will be a task for the Finance departments of the Government of India and of local Governments to complete in collaboration and for which more time is required than is at present at our disposal. At the moment we lack the necessary data for thorough scrutiny. It may well be that expert examination may subsequently establish that the expectations of revenues from Central sources of taxation and income and of economies in the growth of Central expenditure have been framed on an unduly optimistic basis and that the yields expected from taxes, from which the provinces will benefit, have been rated too high. Discretion may dictate that greater caution must be exercised touching the time at which the salt tax can be handed over to the Provincial Fund and that Sir W. Layton may be found to have been too sanguine in this regard. Naturally the reserves in the field of taxation which the Central Government can tap in the event of war or Frontier expeditions, will also need careful exploration; and this examination may affect some matters, as for instance the percentage of surcharge which provinces can be permitted to levy on income-tax. We also clearly realize that under Sir W. Layton's scheme the proportionate increase in revenues in the Punjab will be markedly less than that accruing in other provinces, *e.g.*, Bihar and Orissa; and that on this score the results are not so satisfactory to us as they might be.

82. Nevertheless, we heartily approve of the general principles and main features of the scheme. It recognizes the need of the province to expand especially in nation-building activities and the obstacles, which the restricted power of taxation under the present system and the limited scope of existing internal resources places in the way of its desire. We welcome the opportunity which the scheme provides for tapping other outside sources. One of the difficulties of the present position has been that, whenever the province felt the need of additional resources, these could only be raised to the extent desired by placing burdens.

on the rural and landed interests. From this aspect we welcome the suggestion that the province should receive one-half of the income-tax on personal incomes and have the discretion, in addition, to levy a surcharge on personal incomes. We also strongly feel that in a province where even the smallest land holdings pay land revenue, we should have the discretion to tax incomes, not derived from land, below the present exemption limit of Rs.2,000. We are also of opinion that there is great force in the suggestion in paragraph 268 regarding the taxation of incomes from foreign investments.

83. As regards the new provincial taxes which are suggested, we feel that in this Province without a complete change of system there is no likelihood of the project for the taxation of agricultural incomes being adopted. In the presence of many small holdings the yield is likely to be poor and hardly worth the friction and trouble which its assessment and collection would involve. If public opinion at some future time fastens on a readjustment of the land revenue system, it is more likely to take the form of lightening or removing the burden on very small holdings and compensating revenues by placing the burden thus removed on to the shoulders of the larger landholders. As regards death duties also, it seems unlikely that the preponderating land-owning interest in this Province will be prepared to subject itself to this form of impost, though it is possible that, given adequate taxation of urban and professional incomes, an enhanced charge by way of mutation fee on transfers of landed property might be accepted. We are sceptical about the practicability of terminal taxes. If they are levied on imported goods, in many cases the goods will have already paid to the Central Government customs duties or excises, and will also have paid octroi or terminal taxes imposed by local bodies. It seems hardly possible to place an additional charge on them to benefit a local Government. Such a charge would also, we observe, probably react unfavourably on railway earnings, and would be very expensive to collect. We are in favour of removing the limit for local cesses on lands in the case of district boards. We approve in principle of the proposal to tax tobacco. We feel some doubt as to the possibility of any considerable return from a tax on matches; for, while in the case of tobacco, the location of the factory is to some extent fixed by convenience of proximity to a source of supply, and will in practice be confined to tobacco-growing centres, the same consideration does not apply to the establishment of match factories; and the latter may be transferred into Indian States, if excises are imposed, with resulting complications. We also feel some doubt whether caution is not needed to prevent taking measures which may operate to stifle a nascent Indian industry, though probably a moderate excise would be paid by the middlemen and not react on consumption.

84. Some doubts have been expressed as to whether it is quite clear that provinces will have full discretion to use all revenues accruing to them, including those from Central sources, on such objects as they desire. We feel that this freedom of discretion is sufficiently clearly intended and expressed.

85. As regards distribution of taxes which pass into the Provincial fund, we are of opinion that the only just and automatic test is that of population. If any surplusage outside this principle is to be allowed, it should rest solely on grounds of Central interests and might take the form of a subvention to provinces for the education of the children of the military classes in proportion to numbers from each province serving in the Indian Army.

86. As regards the federal implications of the constitution of the Provincial Fund, the machinery by which it will be fed and the safeguards against the initiation of changes in the taxes coming within the scope of the Fund or alteration in allocations to the Fund of particular taxes, we find ourselves in general agreement with what is proposed in paragraphs 305-307 of Chapter 7 of Part VIII of Volume II. Until the final composition of the Federal Legislative Assembly is determined, we find it difficult to decide whether in effect the provision requiring the expression of a desire by the Finance Members of more than three provinces as a condition precedent to the initiation of a change in the taxes within the scope of the Fund is sufficient. We consider it essential that there should be adequate safeguards against the more populous provinces imposing their will on the majority of the provinces, which appears to us to be a necessary condition of a Federal system. It will also be necessary to provide that changes do not operate to inflict too sudden and severe a change in provincial budgets, and in this connection it would appear desirable to lay down that changes by way of reduction should only take place, at earliest, a full year after the date on which they pass the Federal Assembly.

87. We note that paragraph 306 of the Report has to be read with paragraph 163. When a national excise is just imposed a simple majority vote of the Federal Assembly is sufficient. When a source of revenue already allotted is to be taken away from the provinces, this can only be done by a simple majority vote of the Federal Assembly combined with a simple majority vote of the representatives of two-thirds of the provinces. Where it is a question of altering the distribution among provinces, a majority of two-thirds, of the members of the Federal Assembly and also a simple majority vote of the representatives of two-thirds of the provinces will be necessary.

88. Paragraph 308 leaves us in some doubt as to whether power will be retained by the Secretary of State to require the submission to him by the Central or local Governments of schemes involving

large capital expenditure. In that the latter ordinarily entail borrowing in London on India's credit, it is probably desirable that he should be kept in touch with such projects, so that the India Office can give the City general indications as regards their nature. As long as the Secretary of State raises loans in London for the Indian Government, some such general connection with aspects of financial affairs relating to loan programmes appears essential. Otherwise we understand that his control over expenditure will in future be limited to Army and other non-votable expenditure.

89. For the present in this province it will probably be found convenient to use the agency of the Central Government for keeping provincial accounts, though there is little doubt that the development of a provincialised Accounts Service will take place in due course. There seems no reason why provinces should pay for maintenance of accounts until the salt duty has been handed over to them.

90. As regards provincial balances, pending the formation of a Central or Federal Bank, no other course seems practicable than that the Central Government should continue to perform the function of keeping these balances under the conditions explained in paragraph 310.

91. We are strongly in favour of audit being the concern of an independent Auditor General.

92. As regards borrowing, there is a divergence of opinion, one Member of the Cabinet holding that there should be no restriction on the discretion of a province to raise a loan within the province. We feel that such freedom will be both unsound in theory and unprofitable in practice. So long as the provinces enjoy the advantage of borrowing money on the credit of India as a whole, there must be control and co-ordination of their loan operations by the centre. Sufficient touch with their needs can be maintained by the association with the Finance Member of the Government of India of a Provincial Loan Council as suggested in paragraph 311; clashes and competition between central and provincial activities in the market must be avoided both as regards the time of launching loans and conditions; and lastly in the interests of the general financial credit of both the Central Government and the provinces there must be some check on unwise and excessive borrowing by a spendthrift province. Indeed, this is the only method of ensuring a requisite degree of financial stability in the provinces, which will remain. So far as this Province is concerned, it has everything to gain from participation in such co-ordination; for even in the case of a loan within the province, experience has shown that Bombay and Calcutta find the bulk of the money; and the province would have to offer extravagant and uneconomic terms, if it ever desired to compete with the Central Government or the Presidencies in its appeals to the money market.

VIII.—The Services.

(Report Part IX)

93. As regards the recruitment of the security services on an All-India basis by the Secretary of State, we are strongly of opinion that it should be continued during the transitional period on the existing basis as suggested in paragraph 329. One of our colleagues has advanced the view that even during this period and in the case of these services, there should be wholly provincial services recruited by a Public Services Commission and entirely controlled by the local Government. Another suggested adopting the scheme advocated in paragraph 329 for 10 years and then reconsidering the question of proportions, method of recruitment and control. We prefer not to modify the system put forward in paragraph 329 in this respect. During the transition period we lay great stress on the wisdom of keeping the All-India system, recruited by the Secretary of State with its wider field of choice and the status, tradition and security which attaches to a regular service with fixed prospects and rules, under the Secretary of State's control. It may in some degree represent a constitutional anomaly; but we consider it essential in the transitional stage. We believe in its utility for securing an Indian element of superior capacity and, so far as the European element is concerned, we do not think that recruits of the desired type would be attracted if recruitment by or on behalf of an authority in India was carried out by a Public Services Commission in India or the High Commissioner in London. We do not wish to imply that this should be the method followed as a permanency; but from the point of view of recruitment, it is important that there should not be any short period fluctuations or changes; so the period fixed before reconsideration takes place should be sufficiently long. We suggest that the date for reconsideration might be fixed as 1949, the date by which the Lee Commission scheme for the completion of the Indianization proportions of the Indian Police Service will in theory finally materialise. We agree that as regards proportions of Indianization we should adhere to the rate fixed by the Lee Commission.

94. As regards the Forest Service, we agree that future All-India recruitment may be discontinued. As regards the Irrigation Branch, however, we are strongly of opinion, in spite of certain considerations to the contrary placed before us by our colleagues, that we should retain a substantial element of Europeans recruited on the basis and safeguards of an All-India Service in its gazetted ranks. The net income from irrigation forms more than a third of the total revenue of the province, and the place it occupies indirectly in the general economic prosperity of the province, and as an asset in the well-being and contentment of the people of the province can be rated on general considerations at a much

higher figure than its arithmetical value in the financial resources of the province. We have too many eggs in this basket to risk losing an element which, past experience shows, conduces to the more efficient preservation and profitable extension of our great irrigation system. In the Punjab the Irrigation officer is more than a technical officer. His efficiency and initiative is a factor for internal stability practically on a plane with that of the officer in the security services.

95. In view of our recommendations in regard to the security services and the Irrigation Service, which involve the retention of some European element with definite service rights, we find ourselves in agreement with the provisions as regards medical treatment which are explained in paragraph 333.

96. As regards safeguards for existing All-India officers, we approve of the proposals made in paragraph 332. We are strongly of opinion that the right of retirement should remain open without limit of time to all officers belonging to All-India Services who may be serving when the new Constitution is introduced.

97. As regards future recruits, it is proposed that they should enjoy the same rights, privileges and safeguards in which the existing members of All-India Services are secured by the recommendations in paragraph 332 and have the same safeguards for their continuance. The Commission make one exception about the right of premature retirement. We discussed for some time the obvious fact that the new recruits would join with sufficient knowledge of future conditions and that unless some change was introduced after their recruitment, it would be illogical to let them have this right. At one time we inclined to the view that new recruits should be allowed to exercise the right up to 5 years from appointment. The question of reciprocal right of forcing compulsory retirement within this period was also discussed. Further thought convinces us that, as far as Europeans are concerned, the acid test is the practical one, viz., whether, if the new recruits are not offered a more extended right of retiring on proportionate pension, recruits will be forthcoming and recruits of the right type. The answer seems to us to be in the negative, and for this reason we think the unlimited right should be maintained. We are aware that the benefits of the present rule may in some cases be abused, and that the position is sometimes felt to be unfair, i.e., it should involve a power by Government to retire undesirable officers. We feel, however, that a discretion to impose compulsory retirement will injuriously affect the idea of service security. We have thought of the possible advantages, in these circumstances, of securing new recruits on provident fund terms. The latter, however, while suitable for a technical officer, such as an Engineer or a Doctor, are of little practical value in the case of the Indian Civil Service or the Indian Police Service, whose

knowledge and experience have no professional value in the employment market on retirement.

98. We must now turn to the attitude which the All-India Services themselves are likely to adopt to the proposed changes and safeguards. We are aware that some service associations in N.W. India placed representations before the Simon Commission to the effect that if all provincial subjects were recommended for transfer, the logical development was to wind up the All-India Services in the provinces and give them proportionate pensions and compensation for loss of prospects and career, as in the case of the Egyptian Services.

99. There has not been time for consultation on this occasion; but His Excellency the Governor requested the All-India Service Secretaries and Heads of Departments at Simla, who included in their ranks officers of the Indian Civil Service, Indian Police Service and Indian Service of Engineers (both Irrigation and Buildings and Roads branches), to meet and give him their views on the portion of Part IX of the Report containing recommendations regarding the future position of members of All-India Services.

100. The views, at which they arrived after discussion, are attached to this section as appendix A. It will be seen that they feel apprehension that the conclusions reached by the Commission in the closing portion of paragraph 332 will not really give them the security they require as regards pensions and funds. Though this may seem unduly apprehensive in the transitional stage, while pay and pensions are not votable, and authority is retained from the Secretary of State downwards through the Governor-General, the Governor-General in Council, and the Governor, ending with the latter's special powers to secure appropriation (item 3 in paragraph 50, page 36) to ensure their rights to payment of dues, their conclusions are, we believe, representative of the present feelings in our All-India Services. In short, at the back of their minds there is an idea that, while the Secretary of State can hardly visualise that it will be ever out of his power to carry out obligations, situations and circumstances may arise when he will not be able to place himself in funds to do so. They argue that to pay the necessary capital sum, subject to readjustment, for each official's pension when he retires, would not be unduly burdensome, and would remove the feeling of insecurity. As regards family pensions and funds, the case for their transfer to a fund with the Secretary of State in the case of Europeans seems to them even more insistent and logical, for in these cases the money is even more clearly than pensions (even if pensions are classed as deferred pay) their own money. The views as regards rates of provident fund appear to be reasonable. We commend generally the opinions expressed to the notice of the Government of India, because the feeling of anxiety in the matter is undoubtedly genuine and acute and may have serious repercussions, as, for instance, starting the new regime with grave depletion

in the ranks of the experienced section of the All-India Services. We observe that the matter referred to in III (2), the claim for compensation for loss of career in addition to premature pension, was specifically considered by the Lee Commission and rejected by them as unjustifiable.

101. The recommendations in paragraph 335 were approved, though it was felt that the amount of pension in each case should be governed by length of tenure of the appointment.

102. It was agreed that the appointment of a provincial Public Services Commission was desirable. It was advocated that the members should be appointed by the Governor for five years, and should be removable only by order of the Governor-General so as to ensure a feeling of independence from control of local authority.

103. Some doubts have been expressed by some communities regarding future recruitment to the provincial and subordinate services, as to how far there is assurance that the principle observed in the past that, keeping in view the claim of efficiency, no one class should be permitted to monopolise the services to the detriment of the just and reasonable claims of other sections of the community, will be followed in future. The answer, in our view, is that difficulties would attend any interference going beyond enquiry and advice by the Governor in future as regards individual appointments by Ministries; but if their cumulative effect is of a nature to come within the purview of the second of special powers [item (2), paragraph 50, page 36] he would be bound to act and should act. Fixed percentages or recital of rights in Statute appear to us to introduce an element of undue regimentation; and the general remedy of the Governor's special powers, if a little vague in definition and in character ameliorative for the future rather than revisory as far as the past is concerned, must suffice to correct tendencies.

IX.—The High Courts.

(Report Part X.)

104. In dealing with the problem of the transfer of law and order in the Memorandum prepared for the Simon Commission by the Punjab Government the official members of the Government made the following observations :—

> " The administration of justice presents a problem peculiar to itself. The actual dealing of justice, whether the conviction and punishment of offenders or decision of civil suits, will remain the task of a body independent of the executive government. It is only in matters subsidiary to the dealings of justice that the executive government is concerned, such as the appointment of judicial officers, their transfer and, in the last resort, their removal or punishment, and in the provision of funds necessary for carrying out the administration of justice. Here

the chief problem is that of keeping justice out of the fields of politics, and it will be seen from the comments of the High Court in Chapter VIII of Part I that it is chiefly in the sphere of patronage and the communal composition of the judiciary that the impact of politics has mainly been felt. Here again it is the communal question which presents the chief difficulty; it will for many years present a problem which it will be impossible to ignore, especially in a population with whom the question of the personnel of the Judicial Service is a matter of acute interest." (Paragraph 24 of Part II, Volume II, P.G. Memorandum.)

105. The question of the High Court naturally divides itself up in three Parts; (i) the appointment of the Judges, (ii) the administrative control over the High Court which includes financial provision, and (iii) the administration of the subordinate judiciary.

106. As regards the first part, the present practice is that the appointment of permanent Judges is made by the Crown, the appointment of additional Judges is made by the Governor General in Council, and the appointment to officiate as Judge in a temporary vacancy is made by the Governor in Council. The number of permanent Judges and additional Judges is fixed under the orders of the Secretary of State or Governor General in Council respectively as the case may be. As regards the first two classes of Judges, in practice the convention is that the Governor, after consulting the Chief Justice, forwards the views of the latter with his comments to the Governor General. The latter then enters into communication with the Secretary of State as regards permanent appointments or disposes of the matter with the Home Department of the Government of India in the case of additional appointments. So far as we understand the Commission propose no change in this procedure except that the appointments to officiate in a temporary vacancy should be made by the Governor General after consulting the provincial Governor. We are in agreement with the recommendations of the Commission, as we consider it important with a view to securing, so far as may be possible, independence from local political influence that members of the Bench should owe their appointment to an authority outside the province. We are conscious that our view differs from that set forth by the Punjab Reforms Committee, which advocated that appointments should be made by the Crown on the recommendation of the local Government, and that a Judge should be removable on the joint recommendation of the Governor and local Legislature concerned.

107. When we turn to the second part, the administrative control over the High Court, the present practice is that the High Court, apart from the actual dealing of justice in which domain they are entirely independent, have certain functions vested in them (i.e., in the person of the Chief Justice) by Letters Patent, as, for

instance, in connection with their establishments, but are in practice actually under the administrative and financial control of the Governor in Council; that is they may put forward scales of staff, changes and additions in buildings, questions connected with records and printing in the High Court, for which the Letters Patent give them a degree of discretion, but the Governor in Council may find it impossible to provide for these items in the budget. The actual salaries and pensions of the Judges of the High Court (and of their Registrar, when he is a member of the I.C.S.) are non-votable, but are a charge on provincial revenues, the whole of the rest of the High Court expenditure and the expenditure on the civil courts (except non-votable salaries) is votable provincial expenditure. The local Government is likewise in control of those subsidiary matters to the dealing of justice to which we have referred in the first paragraph of this section.

108. The Commission recommend that the administrative and financial control of the High Court and its establishments, buildings, contingencies, etc., should be assumed by the Governor General in Council and that these matters should be a charge on Central Revenues which would be reimbursed to some extent by making High Court fees a source of Central Revenue. It is proposed that the functions of the provincial executive in connection with the administration of the subordinate judiciary and their relation with the High Court in this connection should remain unchanged.

109. The Honourable Judges of the Lahore High Court have expressed their general agreement with the proposals of the Commission, and a copy of their letter is attached as appendix B to this Memorandum. We have given the matter careful thought, but are unable to find ourselves in agreement with the High Court and the Commission on this point. Though we would naturally welcome the relief to provincial finances which the suggestion involves, we feel that the loss in other respects outweighs the possible advantage. We see risk of friction and growing aloofness which would not be in the best interests of the Province. In the Court itself we fear that amenities and scales of establishments would tend to be set up which would be out of proportion to those fixed for persons, departments and establishments of a somewhat similar character at the headquarters of provincial Government and have unsettling repercussions. While the necessary and proper judicial independence seems to us to be secured by the power of appointment and removal of Judges being vested in an authority outside the province, we apprehend that the additional (and in our view unnecessary) sense of independence, which must result from the Commission's suggestions on the administrative and financial side, might destroy the intimate and close relations between the Court and the local Government in connection with the personnel, discipline and working of the subordinate judiciary which in our view it is so essential to maintain. Friction in regard to these matters would have reactions

prejudicial not only to the working of the subordinate judiciary but also to the confidence of the public in the administration of justice. The High Court have already complained of the criticisms on the administrative side of their work which are occasionally made in the legislature. Even under the system proposed in the report of the Commission opportunities for such criticisms would remain, e.g., in connection with demands for grants connected with the subordinate judiciary. In our view these criticisms would tend to increase in proportion as any portion of this administration is removed from the purview of the responsible provincial executive; and their disappearance can only be secured by even more close co-operation in these matters between the highest judicial and executive authorities in the province.

X.—Relations between the Home and the Indian Governments.

(Report Part XI.)

110. We consider it reasonable that the control of Parliament within the provincial field should be restricted to matters in which special powers are reserved for the Governor and be exercised through the Governor General.

Appendix A.

(See paragraph 100.)

Proceedings of a meeting of Secretaries to Government held in Chief Secretary's room on the 19th of July, 1930.

I.—Security of Pensions.

Paragraph 332 of Simon Commission's Report.

"Pensions are really in the nature of deferred pay."

Recommended.—

(*a*) that statutory force be given to this declaration.

(*b*) that financial security for the pensions of officers appointed by the Secretary of State be maintained in London, preferably by making them a charge on the Consolidated Fund. If this recommendation is not accepted, then recommended;

(*c*) that the British Government guarantee the pensions of all officers appointed by the Secretary of State;

(*d*) that the existing exchange rate (which is fixed by rule having the force of law) be maintained for calculating the sterling value of pensions;

(*e*) that whatever form of security is conceded, it should be sufficient to enable insurance companies of repute to insure service pensions at a reasonable rate, e.g., not exceeding ½ per cent. of the pension.

II.—Funds.

Recommended.—

(*a*) that a rate of 1*s*. 6*d*. per rupee for payment of Provident Funds be secured by statutory rule;

(*b*) that subscribers to Provident Funds be entitled to withdraw the whole amount at their credit for purposes of investment in insurance policies at any time and that they be entitled to receive the sterling value of the sum as it stood on the date of application. If any subscriber is not insurable at first class rates, that he be entitled to the concession mentioned above for purposes of other investment;

(*c*) that sterling family pension funds be funded in London for the benefit of subscribers and their dependents.

III.—Proportionate Pensions.

Recommended.—

(1) that the system of proportionate pensions be continued to all officers at present entitled and be extended to all future recruits appointed by the Secretary of State;

(2) that the contemplated changes in conditions of service, particularly at the expense of the I.C.S. and Indian Police Service Officer, constitute a grave hardship on officers recruited before 1920, who are still in the middle years of their service. The proportionate pension due to an officer of 15 or 16 years' service, who is without private means and has a wife and family to support, might well be inadequate to enable him to live without seeking further employment, which it is notoriously difficult for an officer without special qualifications to find. Consequently the remedy, which the proportionate pension concession is intended to provide, may well in practice be closed to such officers; and it is recommended therefore that they should receive, in addition to the right to retire on proportionate pension, compensation for loss of career or in the alternative for having to continue to serve under conditions altogether different from those which induced them to join the service.

IV. The meeting endorsed the recommendation of the Simon Commission regarding medical relief for European Officers and their families.

V. The meeting ventured to point out that the ability of Government to secure the pensions and funds of the services will be gravely imperilled if the Irrigation Department ceases to be recruited by the Secretary of State.

Appendix B.

(See paragraph 109.)

From the Registrar of the High Court of Judicature at Lahore to the Additional Secretary to Government, Punjab, No. 5352-A/IV-A-9, dated Lahore, the 19th July, 1930.

Subject:—*Recommendations of the Indian Statutory Commission regarding the position of High Courts.*

With reference to your Letter No. 2646-S.-Reforms, dated the 5th of July, 1930, I am directed to say that the Honourable the Chief Justice and the Judges agree generally to the proposals contained in Part X of Volume II Report of the Indian Statutory Commission. They suppose, however, that just as judicial salaries are proposed to be made a charge upon Central Revenues so, should the proposals in Part X be adopted, judicial pensions would be made a similar charge.

ENCLOSURE B.

Memorandum containing the opinions of the Non-Official Members of the Government of the Punjab on the recommendations of the Indian Statutory Commission.

TABLE OF CONTENTS.

I. Joint Minute by the Hon'ble Khan Bahadur Captain Sikandar Hayat Khan, M.B.E., Revenue Member, and the Hon'ble Malik Firoz Khan Noon, Member for Local Self-Government ... ...

II. Minute by the Hon'ble Sardar Sir Jogendra Singh, Knight, Minister for Agriculture ... ...

III. Minute by the Hon'ble Mr. Manohar Lal, Minister for Education ... ...

PART I.

Joint Minute containing the opinions of the Honourable Captain Sikandar Hayat Khan, M.B.E., Revenue Member, and Malik Firoz Khan Noon, Minister for Local Self-Government.

In depriving the Muslims in Bengal and the Punjab of their legitimate share of representation in the Provincial Legislatures the Indian Statutory Commission has failed to do justice to the claims of Muslim India. Its conclusions in paragraph 85 of the Report are based on the ground that it will give them (Muslims), " a fixed and unalterable majority of the ' general constituency ' seats in both provinces.". The argument fails to carry conviction in face of the obvious fact that the Hindus, in spite of giving weightage to the minorities, will remain perpetually a substantial and unalterable majority in the other six provinces. Apart from its being obviously unfair to the Muslims of Bengal and the Punjab and its prejudicial effects on the rights and interests of Indian Muslims, the proposal appears to us to be in conflict with the main scheme for establishing a federal form of government propounded in the Report. We find it difficult to reconcile this particular item in their recommendations with the ostensible desire on the part of the Commissioners, of securing to the various components, equal opportunities for internal development on lines best suited to the conditions and requirements of each unit. The Commissioners seem to have overlooked or ignored the serious implications of their proposals (in paragraph 85) which can have no other effect except that of relegating the Muslims to a position of political impotency even in those provinces in which they happen to be numerically superior. When we find that the question of Sindh has been left unsettled; Baluchistan has been denied even the rudiments of a reformed administration; and the advance proposed

for the N.-W. F. Province falls considerably short of the expectations of even the most conservative elements amongst the Muslims, it is difficult to escape the conclusion that Muslim interests have been allowed to suffer not merely for lack of proper appreciation of the claims and needs of the community, but perhaps for other reasons. This conviction is further strengthened by the singularly unconvincing nature of the argument employed by the Commissioners in support of their contention in paragraph 85 of the report.

It has been suggested by some critics that in sacrificing the Muslim rights and interests the Indian Statutory Commission has made a feeble attempt to placate the majority community with a view to reconciling them to the conclusions and recommendations embodied in this Report. Whatever may be the reasons the fact remains that if the recommendations of the Indian Statutory Commission with regard to the representation of Muslims in Bengal and the Punjab are accepted the minorities will be subjected to the rule of a formidable oligarchy not only in the Central Legislature and the provinces where they are in a minority, but even in those provinces in which they are legitimately entitled to superior representation. We would be failing in our duty to the Government and the country if we do not enter a strong caveat against the adoption of a course which will result in depriving the most important minority in the country of its due and rightful share in the management of the country's affairs, both in the Central and Provincial spheres. If in spite of the repeated assurances from the Viceroy, and responsible Ministers of His Majesty's Government, the interests of minorities are allowed to be subordinated for reasons of expediency or other considerations, there will be serious repercussions which may result in further aggravating the situation in the country by accentuating the differences between the British and Indian people.

It is a matter for satisfaction to us that our official colleagues also consider the proposals contained in paragraph 85 of the report as unfair to the majority community in the Punjab; and in the concluding sentence of paragraph 30 of the Memorandum they have expressed their views in the following words :—

> " but we feel that we cannot go so far as the Commission in paragraph 85, for it seems to us illogical to deprive a population majority entirely of their position."

Although the language used is guarded; it is sufficiently clear to indicate a desire on their part, of securing to the community, which is numerically superior, its rightful position as a majority in the Provincial Legislature; though they do not contemplate going to the extent of giving them representation warranted by their numbers. But we are surprised to find that in the eventual composition of the Legislature, recommended by them, they have overlooked this consideration and have failed to carry the principle enunciated, in paragraph 30, to its logical conclusion.

According to their proposals the Muslims get two more seats than the Hindus and Sikhs combined; but will still remain in a minority in the House as a whole. We do not consider this arrangement satisfactory or in consonance with the expressed views of our official colleagues, already referred to. Muslim opinion throughout India has repeatedly and emphatically declared in favour of representation on population basis for the Muslims in the Punjab and Bengal; and we are convinced that it will be difficult to reconcile them to a figure which falls short of this demand. The Muslim Members of the Punjab Government in their Memorandum to the Simon Commission proposed 51 per cent. representation for the Muslims in the Punjab. In reducing the Muslim strength they were actuated by a desire to meet the sentiments and wishes of Hindus and Sikhs in the province. The Punjab Reforms Committee also made similar proposals with a view to restoring harmony and giving to the Sikhs an added sense of security. It is a matter of common knowledge that the Muslim press and public took strong exception to these proposals. The recommendations of the Simon Commission on the subject have created further resentment, and the Muslim opinion throughout India has condemned these proposals in no mild terms. It is asserted that of the Muslim claims, which are essential for their existence as a self-respecting entity in the country under the future constitution, not one has been conceded by the Indian Statutory Commission. It is admitted that a federal form of government has been proposed; but it is pointed out that this can have no attraction for the Muslims if they have to play the second fiddle, both in the Central Legislature as well as the provinces.

Again, with regard to separate electorates it is said that the recommendations are hedged in to such an extent, and involve the acceptance of conditions which will reduce the Muslims to a position of perpetual minority everywhere, that they virtually amount to forcing the Mussalmans to merge into common electorates. The Muslims in the Punjab and Bengal have been given a choice between a " dagger and the poison bowl ". According to the Simon Commission they must either accept joint electorates or else agree to give up their due share in the Legislatures. Under these circumstances some of their leaders contemplate advising the Muslims to review the situation and seriously consider whether it would not be advisable for them to give up separate electorates and throw in their lot with their Hindu and Sikh countrymen and take their chances in common electorates. It is pointed out that by accepting joint electorates their position cannot be any worse than that contemplated by the Simon Commission under their scheme. In short, the Mussalmans, not unnaturally, consider that they have once again been left in the lurch by their friends in whom they had reposed their confidence and trust. The extremists have not been slow in discerning the possibilities of turning into account the present resentment of the Muslims and are

naturally directing their energies towards weaning the Muslims from their present position and ideals with a view to exploit them for their own purposes. We sincerely hope that better counsels will prevail and the British Government will not allow the impression to gain strength that Government's friends are invariably the losers in the end.

We are convinced that Muslim opinion in the Punjab will not be satisfied with anything less than their legitimate share of representation as warranted by their numbers. The proposals in paragraph 31 of the Memorandum fall short of these demands and therefore cannot be acceptable to them. (As regards the reservation of seats for big landholders Malik Firoz Khan Noon considers that the recommendations in paragraph 29 do not go far enough to sufficiently safeguard the interests of this important class. He feels that in the absence of a second chamber, and the removal of the official bloc, it is essential that at least 15 per cent. of the total number of seats should be reserved for big landholders in order to get a fair element of this class in the House which will exert the necessary steadying influence; and he feels that an increased representation of this class should be secured immediately instead of deferring it till such time as the inadequacy of their representation is demonstrated by a breakdown of the legislative machinery.)

Paragraph 24.—To the observations in paragraph 24 of the Memorandum we would like to add that " all constituencies whether Muslim, Hindu, Sikh or others should be thrown open to members of all communities irrespective of their creed ". This suggestion was made by one of the Muslim Members of the Punjab Government in a previous Memorandum and was endorsed by the Punjab Reforms Committee. We consider that this will be a step forward towards the goal of joint electorates.

Paragraph 43.—While we fully endorse the views expressed in paragraph 42, we regret that we are unable to agree with the observations and conclusions contained in paragraph 43 of the Memorandum. We consider that the proposals for extension of franchise in paragraph 106 of the Report are on the whole sound. In this connection we wish to remark that one of the obstacles in the way of early introduction of common electorates is the existing disparity between the electors of the various communities. We believe that the prospects of setting up joint electorates in the near future will be considerably strengthened if this disparity is reduced.

Paragraph 57.—We notice that the observations in paragraph 57 of the Memorandum are to some extent in conflict with the remarks contained in paragraph 71. We consider that residuary powers should remain with the provinces and this principle should apply equally to matters in the legislative field.

Paragraph 62.—We consider that the second sentence in paragraph 62 is too vague. We recommend that the next step towards devolution in the Centre should take place not later than 10 years

from the date on which the revised constitution comes into force in the provinces. This would give ample time to the provinces to sufficiently consolidate their position against any risk of interference from the Central Government or Legislature.

Paragraph 64.—We are of the opinion that the existing practice of appointing Members of the Governor-General's Executive Council under the Royal Sign Manual should continue till such time as all the subjects are transferred to popular Ministers. We see no difficulty in reconciling this with the Simon Commission's proposal as the discretion of the Viceroy to recommend suitable names will remain unimpaired. So far as the appointment of Indian Members is concerned, we are not aware of any instance in which the Viceroy's recommendation has not been accepted by the Secretary of State; and we do not apprehend a departure from this convention in future.

Paragraph 71.—We confess that we are at a loss to understand the meaning or implications of the opening remarks in the last sentence of paragraph 71. If it is meant that the residuary powers in respect of the subjects transferred in the provincial field should be retained by Parliament we most emphatically disagree, as a provision of this nature may conceivably result in complete negation of " responsibility and autonomy " proposed to be conferred in the provincial sphere. We, however, entirely agree with the concluding portion of that sentence.

Paragraph 77.—In addition to multiplication of training schools we should like to see an Indian Sandhurst established at the earliest possible date. We consider this to be a necessary corollary to the other proposals contained in this paragraph.

Paragraph 78.—In view of the considerations enumerated in paragraph 72 of the Memorandum we consider it desirable that the Punjab should be adequately represented in " the Committee on Army Affairs."

While agreeing generally with the observations in Chapter V of the Memorandum, we feel that a definite time limit must be fixed within which the process of Indianization should be completed and the control of the army handed over to a popular Minister of the Cabinet. We consider that 20 years would be a safe and adequate period for the purpose. It at the end of that period Indian officers of sufficient status and experience are not available to fill all the higher staff appointments, it should be possible to secure the services of British officers through the War Office till such time as suitable Indians can be found to replace them. We contemplate that even after the process of Indianization has been completed British officers will still be available to help and guide their Indian compeers. It will also be desirable to secure close connection between the British and Indian armies and this can be done by a periodical exchange of officers between the two armies. It will not be out of place to mention here that Japan successfully created and

organised a highly efficient army within a short period; and we see no reason why India, which has the additional advantage of possessing a magnificent fighting force, should not be able to achieve the same result within the next twenty years.

Paragraph 83.—While we endorse the views contained in Chapter VI of the Memorandum we do not share the apprehensions of our official colleagues with regard to the imposition of terminal taxes. We consider the proposal of Sir W. T. Layton of great value as it will afford the provinces an opportunity of imposing indirect taxation, which is considered by the people to be less burdensome and is therefore comparatively less unpopular than the direct taxation.

Paragraph 92.—As regards borrowing, we feel that we cannot do better than commending the proposals contained in paragraph 130 of the Punjab Reforms Committee's report which we consider from every point of view suitable. We reproduce below this paragraph for convenience :—

> "Another matter raised during the deliberations of the Joint Free Conference was the question of conceding to the provinces the right of raising loans on their own responsibility and credit without interference from the central government. While we consider it necessary that the central government should be invariably consulted in all cases where the provinces desire to raise loans, the former should not ordinarily stand in the way of the provinces making their own arrangements if it is to their advantage to do so. A convention should, however, be established which would allow the various provinces to meet together under the aegis of the Government of India to discuss questions of provincial credit, and the requirements of the various provinces from time to time in the way of loans, which they desire to float in this country, or elsewhere. We feel that the varying credit of the different provinces may adversely affect the position of provinces with a better and more stable financial credit if loans were always to be raised through the Government of India. Moreover, freedom of action in the matter of borrowing would encourage the provinces to consolidate and strengthen their financial position and resources. We are, however, of opinion that in case of external transactions and loans raised outside the country, the Government of India's sanction should be necessary in order to avoid international complications, and any risk to the stability of currency, and the financial credit of the country as a whole."

Paragraph 93.—We consider that the dates fixed by the Lee Commission for reconsideration of proportions in the Indian Civil Service and the Indian Police Service should for the present be adhered to. [One of us, Malik Firoz Khan Noon, is of the opinion that provincial autonomy will be a sham if the security services, Police and I. C. S. (both Executive and Judicial Branches) continue to be recruited by the Secretary of State and remain under his

control for all intents and purposes. Is it not a fact that there is not a single Dominion (Australia, Canada, South Africa) where security services are recruited by a Secretary responsible to the British Parliament? He considers that if the security services in Egypt are recruited by Egyptians, there is no reason why this right should be denied to Indians. He is further of opinion that even if the British element in these services cannot be immediately brought under the control of Provincial Governments there is no reason why the Indian element should not be forthwith placed under them.]

Paragraph 94.—We are not convinced of the necessity of retaining the Indian Service of Engineers as an all-India service. While we fully appreciate the importance of our irrigation system and its enormous value as a permanent asset, we do not see how the provincialisation of this service can affect the revenues of the province as suggested in this paragraph. The power to reduce or enhance the rate of *abiana* will under the new scheme rest entirely with the local Legislature; and it is therefore obvious that the classification of the officers of the Irrigation Department under one or the other category can have no effect so far as the depletion or inflation of revenues from this source is concerned. On the other hand, we see grave disadvantages from the provincial point of view in allowing it to continue as an all-India service. So far as the interests of the present incumbents are concerned, these are already sufficiently safeguarded under the existing rules. As regards the future recruitment of British element, we propose to leave it to the Secretary of State to enlist the requisite number of officers on behalf of the local Government. This we consider, will sufficiently ensure the continued efficiency of the Department in future. (Malik Firoz Khan Noon is of the view that so far as this particular service is concerned there is no dearth of competent and highly qualified Indians who can be recruited in this country. He considers that if there is any service for which eminently suitable Indians are available in large numbers in the country it is the irrigation service. He feels that there is no need to reserve any post for Europeans in this service; but if the provinces wish to recruit a certain percentage of Europeans, which is very likely to be the case in the Punjab, for some time to come, then they should be allowed to recruit these officers themselves through the High Commissioner for India; and as far as the recruitment of the Indian element in the irrigation service is concerned, it should be immediately placed under the full control of provinces.)

Paragraph 104.—We are in full agreement with the observations made in this paragraph; but we consider that so far as the appointments of Judges of the High Court is concerned, the proposals put forward by the Punjab Reforms Committee in paragraph 135 of their report should be adopted. They suggest that " all Judges of the High Court whether permanent, additional or acting, should be appointed by the Crown on the recommendation of the local

government. No judges of the High Court should be removable except by the Crown on the joint recommendation of the Governer and the local Legislature ".

At present the Ministers, as distinct from Members of the Executive Council, are not entitled to leave of any description during the tenure of their office. We consider this as anomalous and suggest that a provision should be made in the constitution to make it possible for the Governor to grant them leave on somewhat similar conditions and terms as now apply to the Members of the Executive Council. We think that they should be allowed one month for each year of service put in by them.

SIKANDAR HAYAT KHAN,
Revenue Member.

The 11th August, 1930.

FIROZ KHAN NOON,
Minister for Local Self-Government.

The 11th August, 1930.

PART II.

Minute by the Honourable Sardar Sir Jogendra Singh, Kt., Minister for Agriculture in the Punjab Government.

General.—The Government of India has been in a state of evolution from the day Britannia set herself to rule India. She passed under a constitutional Government with the transfer of administration from the Company to the Crown by the passing of the Act of 1850. In 1858 Queen Victoria of revered memory solemnly declared herself bound to her Indian subjects by the same obligations of duty as to all her other subjects. The seed of representative institutions was sown by the grandfather of our present Viceroy, with the passing of the Act of 1861 and quickened into life by the Act of 1909. Then came the War, and India fought the battles of the Empire in its far flung fields: and England promised her an equality of position in the British Commonwealth. Consequently India was admitted as an equal member of the League of Nations and the Government of India Act of 1919 was passed which His Royal Highness the Duke of Connaught declared as the first step towards Swaraj.

The Simon Commission was entrusted to examine the position with a view to redeem this solemn promise. The Commission spent two years in studying the situation; and before it had furnished its report, H.E. the Viceroy journeyed to England to plead India's cause: and on his return in 1929, speaking in the name of His Majesty's Government, defined Dominion Constitution as the goal of British policy. The Indian opinion from

Gandhi downward rallied round the Viceroy, ready to co-operate in preparing a scheme which would invest India with the power of guiding her own destiny in future, as an equal partner in the British Empire.

The Viceroy did not receive the support he deserved and the position secured by Lord Irwin was lost.

Then came the Simon Commission Report. It studiously avoided any affirmation as to the objective of British policy and treated the announcement made by the Viceroy as a dead letter.

The scheme prepared by the Commission provides no bridge for the halting feet to walk on the road to realisation of nationality. It places the Executive, so far as the Central Government is concerned, in a stronger position than now. The report pleads that a work of architecture has to find its foundation on solid earth forgetting that it needs human hands to build it, implying willing support and approval of those concerned. Sir John Simon's declaration that you cannot put a slogan into an Act was an unhappy confession from a man of his vision. No one knows better than him how potentialities of progress are stirred by a war cry. India expects Britannia to lead her to the promised land : any failure to meet this demand sounds as if England herself was losing faith in her mission; reluctant to realise the inevitable results of the forces set in motion by her. People are aware of the difficulties and dangers that beset the path to the pinnacle of power, but they are animated by high hopes that these can be overcome under proper guidance and leadership. The Commission missed a great opportunity by adhering to a narrow interpretation of its functions. The all-India solution has found no favour and will have to be greatly modified, if it is to place India in a position to govern herself.

The Punjab.—Let me begin with my own Province. The Punjab stands between the North-West Frontier and the rest of India : it is inhabited by martial races. It has a large Muslim population which has been swept by Pan-Islamic idea more than once, along with other Muslim countries on the border-land, such as N.-W. F.-P., Afghanistan, Persia and Turkey. The idea of reviving the glories of Islam is natural and never absent. In dealing with the Punjab, is it wise to ignore this aspect of the problem and its reaction on the rest of India? More than any other province the Punjab needs a legislature and a cabinet which provides a balance between the communities. The presence of the Sikh Community is a factor of some importance to the Province.

Provincial Autonomy.—The Commission has decided wisely to confer on the Provinces provincial autonomy under safeguards. The formation of a Cabinet with joint responsibility to the legislature is an ideal which has been the ambition of the Provinces to reach : but joint responsibility can only begin in joint electorates. The Commission has suggested no advance and official

Members in their note have accepted a position which I must confess is not tenable. It gives fresh life to communal groups and rather than help the growth of self-Government will undermine its foundations. Joint responsibility demands joint electorates and if the minorities in the Province are not asking for any protection, in the way of separate Electorate, is it reasonable to give additional protection to the majority community? If the elections are to be on the basis of communities the formation of a Cabinet must depend on communal groups.

British Representation.—I do not see why the British should have no representative in the cabinet. The presence of a Britisher in the cabinet may provide a balancing influence and may help the Ministers selected from communal groups to so act as to serve all. I am aware of the criticism that an official Minister in the Cabinet is not consistent with principles of democracy; this is not altogether true as long as British forces and British officials are required, and as long as British stake in the country is as great as now, it is but fair to recognise the need of British representation in the Cabinet in the same way and on the same grounds as is claimed by other minority communities. If the appointment of an unelected Minister seems illogical there is nothing to prevent an official seeking election from a Special British constituency after resigning his appointment in the Civil Service. I feel that when I claim that the Statute should provide for the presence of a Sikh in the Provincial Cabinet on the strength of my community's importance and stake in the country, I cannot consistently refuse British representation in the Cabinet; the British community is no less important than any other minority community in India. To my mind it would secure greater harmony if a Britisher finds a seat in the Cabinet itself and is responsible for the decisions that are arrived at, rather than the arrangement which the official members propose; the appointment of a Principal Cabinet Secretary who can criticise, without sharing the responsibility of decisions. He will be like a British Resident in an Indian State, an interested critic,—without responsibility,—reporting to the Governor. If there is to be no British Minister in the Cabinet the Punjab cabinet should consist of half Muslims and the other half non-Muslims. The Sikh position is that as long as communal representation remains there should be statutory provision for the inclusion of Sikhs in the Ministry and the Sikh and Sikhs who are selected for appointment should enjoy the confidence of the majority of the Sikh Members of the Council.

Appointment of a Chief Minister.—The question whether there should be a Chief Minister is full of difficulties. If Cabinet is to function, it must have a Chief Minister, but it would make good Government in the Punjab altogether unworkable, if the Chief Minister comes from the majority group and selects his Hindu

and Sikh colleagues, who promise to be subservient to his community. Indeed, the prize of Chief Ministership should be reserved as the reward of forming a non-communal party dependent on the confidence of all communities. In the earlier stages it would be wise if the Governor selects Ministers from the communal groups and appoints them, till the Council itself reaches a stage when it can disregard communal considerations. The Governor could ascertain before he makes final appointments if the persons he wishes to select are ready to work together and accept joint responsibility and allow the Ministers selected to choose a Chief Minister from among themselves to retain his position as long as he enjoys the confidence of his colleagues.

Reserve powers.—I have no objection to the Governor having powers as defined in paragraph 49 of the Simon Commission Report. Indeed, it is my hope that Cabinets and Legislative Councils will work in such a way that the Governor will be rarely called upon to use his reserve powers, which will fall out of use as the powers of the Crown have fallen into disuse in other parts of the Empire.

Mechanism of advance.—The Commission is right in recommending that the new constitution must carry the mechanism of advance and that Legislatures should have the power of modifying the constitution, thus conferring elasticity and enabling adjustments to be made according to the demand of new times.

Redistribution of Boundaries.—There is a good deal to be said in arranging provinces in such a way as to assure harmonious working and if communal problems present difficulties which cannot be overcome by mutual good will, then the only possible course is the redistribution of the provinces in such a way as to minimise communal difficulties. The scheme of representation outlined by official members for the Punjab will place the Muslim community in permanent majority. I am aware of no historical parallel, or theoretical principle for placing a community in permanent majority in the name of democracy and if no other solution can be reached, redistribution of boundaries may provide the only fair and just solution.

Dera Ghazi Khan in any case is really outside the range of the Punjab also Isa Khail Tehsil of Mianwali District. The boundaries of the Punjab may well remain this side of Indus. Dera Ghazi Khan as the official members point out must be a charge on Central revenues and find its proper place in the N.-W. F. Province or Baluchistan.

Size of Provincial Councils.—I think it would be a mistake to make the size of the Council too large or to lower the franchise too much. Having provided the mechanism of advance the movement in the direction of increasing or decreasing the number of members,

lowering or raising the franchise should be left to the Council itself. Now if we take the present Council it has :—

34 Mohamadans.
23 Hindus.
13 Sikhs.

The Council is safe from acting in a communal manner by the presence of an official *bloc* numbering 16 and 6 nominated members; the official *bloc* therefore represents about 17 per cent. of the Council. In the new constitution the official members disagreeing with the Commission's recommendations propose :—

The total composition of a house is as follows :—

Muslims	66
Hindus	40
Sikhs	24
Europeans	2
Labour	1
Christian	1
Total	134

The labour seat may as well be accounted for as a Muslim seat thus securing 67 solid seats to the Muslim community, and the balance scattered amongst the other. Does any one imagine that a fixed majority of 67 could ever be moved, or allow the growth of a party system or National Government? The argument that in other provinces there will be Hindu majority does not strengthen the case. In other provinces Muslim minority have been given weightage almost to doubling their representation—a substantial concession—but in the Punjab we are expected to accept a false creed that a majority community should get preference on the basis of population, while representation is based on property franchise. So far as I am aware this doctrine has formed no part of democracy anywhere, but some phrases acquire a fatal fascination and refuse to be dislodged.

It is difficult to follow the reasoning which has led to this decision. Ordinarily, protection is extended to minorities, but in the Punjab it is the majority that is to be safely established in permanent power in the name of popular Government. It must be remembered that British Government has succeeded by its non-communal character. A communal majority should be in a position of dependence; so that it may seek reconciliation and understanding with other communities and endeavour to give satisfaction. Our aim is to promote the growth of nationality and self-Government and we must not knowingly introduce elements which are likely to exert a disruptive force. I am, therefore, strongly opposed to the recognition of the principle that a majority community should be in permanent majority, as long as representation is by separate communal electorates and based on property and other special qualifications. It

must be admitted that provincial autonomy is only possible under safeguards, which can secure a Government not by one community but by all the communities for all the people of the Punjab. The idea that reserve powers vested in the Governor and the Government of India will prevent any break-down will be found in practice an exploded myth. No Governor could be in permanent opposition to his legislature. The safeguards must therefore be in the Council itself and provide for the merging of the communities. This can be done by the allotment of seats not on the population basis but on the voting strength and so long as adult franchise is not introduced it is illogical to bring into play the principle of population. The importance of a majority community can only be judged by its services, by its usefulness, and by its stake in the country. So far as population of peasants (*Jats*) is concerned, the Muslim population is no larger than the combined Hindu and Sikh population. Indeed, in this world of ours it is minorities that have dominated nations, and though the ideals of pure democracy demand a new orientation, the biological factor still confers powers on those whom God has dowered with the gift of ruling.

In the days of Cromwell the question was raised. Ireton defined the principle that voting should be based on property and confined to those who have a permanent stake in the country. Colonel Rainboro in his passionate vision swept aside the requirements of expediency and experience, and said, " I think the poorest and that is in England hath a life to live as the richest he ". It has taken England all these years to introduce adult franchise, while we are ready immediately to sacrifice vested interests. Take the Punjab : the eight colony districts pay 221 lakhs in land revenue and 281 lakhs in water rates as compared with 234 lakhs in revenue and 281 lakhs in water rate by the remaining 21 districts of the districts. If we were to separate the Central districts the contribution of the Muslim districts will sink into insignificance and yet it is the population of these districts which gives Muslims their majority. Is it reasonable to expect the Central districts to accept this arrangement, which would place them in such an invidious position? The position is clearly illustrated by the present constituencies. The number of voters for one member of each community are as follows :—

9,500 votes to one Muslim member.
12,055 votes to one Hindu member.
14,300 votes to one Sikh member.

Under the new proposals this will alter as follows :—

7,320 votes to a Muslim member.
10,314 votes to a Hindu member.
11,143 votes to a Sikh member.

Is this right, equitable or expedient that an important minority like the Sikhs should get a member for 11,143 votes to the 7,320

votes required for a Muslim? Is it reasonable to expect the Sikh community to accept such an arrangement? Everywhere it is minorities that are given protection, here minorities are to be penalised and refused their share which their voting strength gives. Can population be the governing factor as long as property franchise remains? I must clearly say that my community will never accept this arrangement.

To summarise, we should not forget the end in view which is the growth of common citizenship, the establishment of self-governing institution, development of a sense of mutual helpfulness and responsibility, and maintenance of those conditions of peace and security which are essential for the social, moral and material development of the province. The conclusions reached by the Simon Commission in paragraph 85 are based on full understanding of the Muslim claims and must prevail. I can assert without any hesitation that the proposed arrangement is not acceptable to two powerful communities and that they are not prepared to surrender on this point.

Electorates.—In the matter of electorates the Sikh community has much to lose by advocating joint electorates : but we recognise that to promote national ends we must sacrifice communal ends. The village people have never asked for separate electorates. Mr. Darling bears witness to the happy relations existing in the villages in his last book. It would be tragic if, when the constituencies are enlarged, we introduce a new line of cleavage in the villages and disturb the co-operative spirit which makes for union. There is no reason why all the rural constituencies should not have joint electorates as well as special constituencies. Separate electorates should be confined to urban areas and at the most extend to the present constituencies. The Commission has suggested the forming of primaries so that the candidates acceptable to any community may be elected, this to my mind meets all the objections. We must recognise the danger of communities consolidating on a communal basis, and if minority communities do not want them, is it reasonable to keep them in the interest of a majority community?

Landholders constituency.—The Commission recommends the abolition of constituencies for landholders under a misapprehension. The idea that landholders can secure their seats through ordinary channels and that there should be no special provision for them is based on wrong premises. The number of large landholders in the Punjab is very small, and consequently power is likely to pass on to the tenants and the small peasants. The landholders and commercial classes as captains of industry have always served as rocks to break the onslaught of disruptive and disorderly forces. I agree with all that the Official Members say regarding the retention of these constituencies. The special representation of the landholders is of paramount importance to protect vested interests and to serve

as bulwarks of good Government. Of course it is not possible to agree to the proposed allotment by communities. There does not seem any reason why nine Tumandars should be given a member. Landlords are men of education and influence, and relations between Muslim, Sikh and Hindu landholders are cordial. I propose that they should form common constituencies and elect their representatives without any regard for religion. It is only in this way that we can promote common citizenship.

The Sikhs.—The position of the Sikhs has failed to win recognition from the Official Members. What is the good of Government expressing its sympathy and recognising the important services of the Sikh community in the past and yet neglecting the claims of the community? A Muslim is to get a seat on 7,000 voters while a Sikh is to get one seat for 11,000 voters. How can such a proposal satisfy the Sikhs? It is not only on communal grounds that I urge the claims of the Sikh community, but also on the ground of public utility. When official *bloc* disappears, with it will disappear the stable and balancing influence which has made for the smooth working of the Reforms. The Punjab is, however, fortunate in having Sikh community which can serve in holding the scales even, and prevent one community from dominating the other. Indeed, the Sikh community provides an element of strength which it would be unwise to dissipate. Let the Sikhs have their just dues, that is representation on their voting strength as long as property franchise remains in force. The Simon Commission very pertinently pointed out that the Muhammadan community was getting weightage both in the Assembly and in other Provinces, where it is in a minority, on the ground of its importance. Is it fair to penalise the Sikhs? I must confess in the Punjab the problem of minorities ends with protecting the majority, unalterable by any appeals to electorate.

Votes for Women.—Regarding votes for women, so far as my community is concerned we are ready to welcome the franchise, but I am not sure if the time has arrived for such a large extension of the vote. I think a proposal of this kind should come from the Council itself.

All-India Solution.—The All-India solution on which the Commission lay great deal of stress can only be proved by the touchstone of time. The need of the moment is that the Central Government should have the power to maintain unity in India, and to exert the influence in helping backward areas to come up to the level of advanced provinces. The Central Government must be truly national in character and provide the model for the provinces to follow. It must be strong enough to preserve present standards of administration, securing even-handed justice for all, helping in broadening the basis of civic life. The Federal Assembly must, therefore, be so elected as to secure this high purpose; and I feel that in early stages it would be unwise to make it dependent on

provinces, or allow provincial views to dominate. The idea that provinces are sovereign States is a myth, with no foundations in fact. The Government of India Act itself bears ample evidence and the report of the Simon Commission is no exception. Therefore in truth it is Government of India which will delegate power to provinces rather than province surrender power to Government of India. Indeed, as long as Government of India is even partially responsible to Parliament, there can be no question of its dependence on provinces. When provinces are fully established in self-Government it will be time for the Assembly to be truly federal in character. The Official Members have argued at great length on the position of the provinces in the Federal Assembly. They apprehend that Central Legislature may impose its will against local feelings and may claim independence and over-riding authority, but the arguments advanced by them in connection with transfer of responsibility in the Centre run counter to these arguments, for they plead that, to permit provinces to grow in the transitional period, the Central Government must possess both stability and strength. I ask for nothing else, and as the provincial Governments will be in various stages of growth, all residuary powers must therefore remain with the Central Government.

The Centre.—I am not concerned whether the Central Assembly is called the Federal Assembly or an Indian Parliament as long as Central Government is in a position to control and guide the provinces. It is essential that the unity of India should be preserved, a unity that has been achieved after long years, and a unity that is the source of its present strength. The federation, in whatever form it takes shape, must not allow this sub-continent to fall into small States without cohesion and without strength, powerless to define its frontiers, as happened in the days of yore. For many years to come, it seems to me, provinces will need a vitalising Centre to help them.

Elections.—In the present state of India I am attracted by a system of indirect elections, but on closer examination I find that nowhere in the world federal assemblies are drawn from popular houses. It may be desirable to create primaries electing to an electoral college of which the Legislative Council may form a part, but I cannot agree that federated assembly should be primarily drawn from the provincial councils. The objection to elections from provincial councils appears to me to be :—

(i) It will rob the provincial councils of the best men and leave the province poorer.

(ii) This will prove a source of weakness both to the provinces and the Central Government. Indirect elections will narrow the field of election.

What we need in the Assembly are men of broad views, the best that the country can give, so that the Central Government may receive requisite strength and support.

In the Federal Assembly and the Council of State the number of Sikh seats should be specially provided.

Council of State.—I am in favour of retaining the Council of State. I would reserve one-third seats for retired Ministers, hereditary magnates and merchant-princes, whom the Government should have the power of nominating for life.

The Viceroy's Cabinet.—The Commission recommends that the Viceroy should retain his Executive Council without any transfer of responsibility to legislature. The experience of last 10 years bears ample evidence that, unless there are direct relations between the Executive and the Legislature, deadlocks are inevitable. The Commission seems to be aware that this arrangement is not likely to be satisfactory, and aims at securing members of the Assembly as members of Viceregal Cabinet by giving the Viceroy the discretion to appoint them. I cannot see, if Indian members are to be drawn from Central Legislatures, what serious results are apprehended if they became responsible to central legislature. If the change is not likely to weaken the stability of Central Government on which the Official Members lay such an emphasis, there is no reason why responsibility should not be transferred to legislature.

The proposals to retain Viceroy's Cabinet in its present form are not based on any clear appraisement of advantages and disadvantages, otherwise it is abundantly clear that it is impossible to work an Executive divorced from Legislature in responsibility. There are no grounds to fear that transfer of responsibility at the Centre will be more disastrous than it has proved in the provinces. The Official Members hold that during the transition period the scheme proposed by the Simon Commission should be followed. I am afraid that the delay in introducing responsibility at the centre will only delay settlement. I have nowhere seen it stated that the risks to which the Central Government will be exposed, by transfer of Departments, holding portfolios which are administered in the provinces by Ministers responsible to Provincial Councils. The leader of the House as proposed by the Simon Commission should be appointed from amongst the members of the legislature and there should be some instructions regarding the claims of Sikhs in Viceregal Cabinet. The Viceroy should have the authority of selecting a fixed number of British Ministers to Foreign and Political and any other portfolios which he considers desirable who should hold seats in the Legislature.

Indian States.—The position of Indian States in a self-governing India seems difficult only if the Indian Princes still cherish the idea that they can partake in all the advantages which the constitutional Government secures for British India and yet they remain irresponsible rulers in their own States. They will have to come to a decision, but till this decision is reached the Indian States can remain as now in relation to the Crown through the Viceroy. If,

however, they wish to take any share in the federation and financial advantages that are likely to flow from it, they will have to maintain the required standards of administration. The claim for financial adjustments must depend on the States joining the federation. I agree with the Official Members that the day is distant for such a federation, but when it comes there does not seem any reason why the Ministers representing the States should not find admittance to the Council of State. There are States and States. The smaller States should form part of the provinces to which they belong and the larger States can come into the Indian federation. The States might make a start at least in one direction. Most of the States have introduced laws modelled on Indian Civil and Criminal legislation. They might now go a step forward and entrust the administration of the laws to a supreme court at Delhi.

Finance.—The financial proposals outlined by Sir William Layton are on sound lines, and the creation of a provincial fund and collection of revenue by the central authority for provinces will provide an additional source of strength. I am in agreement with what the Official Members say on the financial proposals of the Commission. Regarding definite recommendations, there is no reason to take fright, as they will have to be accepted by properly constituted representative Councils.

All-India Services.—The advantages of all-India Services are to secure men of character and ability who are free from communal bias. The recruitment of all-India Services, therefore, should be entirely through competition and the standard which has been set by British traditions should be strictly maintained. I am in agreement with what H.E. the Governor says regarding following the Lee Commission recommendations till 1949, when the matter can come for reconsideration again.

The present system of nominating members from minorities to all-India Services who are not qualified and cannot get through the competition should be dropped. To provide room for minorities the only possible way seems, to me, is to make a selection from officers who have been tried, and who have proved themselves worthy to be admitted to the Imperial Service by their character, ability and freedom from communal leanings.

High Court.—I entirely agree with the recommendation of the Commission that the High Courts should be under the Central Government, so that the Judiciary may be entirely independent of any political parties that may be formed in the Province on lines other than national. In spite of what the Official Members say, I think all High Courts should be transferred to the Government of India, as the Simon Commission recommends.

The Army.—Complete severance of control of the Army from the legislature turns constitutional advance into a mockery. I agree that His Excellency the Commander-in-Chief should remain outside

the legislature. I recognise that British troops lent to India might remain outside the control of legislature and may form a charge on the Imperial and Indian Revenue. There can, however, be no question that Indian Army should be under the control of the Legislature, and, as in the early days, a limited number of British officers can be lent to maintain its efficiency. It would not be difficult to provide for the continuation of a common general staff, supplies and services which can form a charge on a non-votable consolidated Army fund which can be created. The Committee on Army affairs can bring the representative of the Legislature and the Army together to serve as a council of Indian defence.

I am confident that the arrangement I propose will secure the position of the British Army on the one hand and satisfy Indian opinion on the other. I can see no other solution which could fulfil these conditions.

In conclusion, I need only recall the objective of British policy, which is to raise India into a self-governing Dominion, and there seems no other alternative, if peace and progress are to be secured, but to confer Dominion constitution under proper safeguards. There is wonderful work awaiting for us all, if we co-operate in making India self-governing, failure to reach an understanding, is not without its dangers; the former promises peace and prosperity, the latter an endless struggle. The refusal to accede to this demand can only result in poisoning the sources of good will and creation of difficulties, which must ultimately drive the two countries apart.

A great victory awaits Britannia if it would co-operate in securing a larger life for India, with the main object of protecting not this or that institution, this or that class or creed, but the whole people, their laws and their liberties, regardless of petty expedients, however attractive at the moment, which must eventually fail, for in this God's universe truth and justice must eventually prevail.

JOGENDRA SINGH,
Minister for Agriculture.

11th August, 1930.

PART III.

Minute containing the opinion of the Honourable Mr. Manohar Lal, Minister for Education.

INTRODUCTORY.

(Simon Commission Report, Part I.)

Chapter I of the Official Memorandum.

It is undoubted that any constitutional system propounded for India must be judged as a whole, but it is also necessary to remember that the test which is applied to any proposals is whether they satisfy

the insistent demand of political India for rapid steps towards the introduction of full responsible Government or to use the more common short expression envisage the early realization of Dominion Status for this country. This is recognized by all political India as an undoubted and necessary implication in the Preamble of the Government of India Act, 1919. In attempting an All-India solution of India's constitutional problem the Commission proposes two basic ideas, (i) that the future constitution of India is to be on federal lines, and (ii) whatever constitution is now introduced it will so incorporate in it the principle of flexibility that future changes and progress will be secured by the healthy method of growth rather than artificial statutory jumps.

2. The principle of Federation for the Indian constitution has been widely questioned. In my Minute, dated the 22nd of August, 1928 (Memorandum prepared for the use of the Indian Statutory Commission, Volume II), in speaking of Provincial Autonomy, I said : " But in attaining the idea of responsible government within the provinces, use is constantly made of expressions such as ' autonomy ', ' constituent governments in a federated union ' that have implications other than legal which deserve consideration. The ideal of provincial autonomy has attractions; it is undoubtedly true that in any properly limited provincial field the knowledge and interest available within the province must work for efficiency of administration, and if sectional forces were not at work, lead to increased general welfare, but it will be a sad situation if as a consequence the already numerous schismatic tendencies in Indian life were to acquire an accession of strength by reducing the provinces into separate sealed units, and the growing national sentiment of comparatively recent origin should thereby suffer any check. In devising the provincial spheres of government, this fundamental consideration that bonds of nationhood should not weaken must be constantly borne in view as the most essential test. The provinces are creatures of executive fiat for administrative reasons, and in trying to attain self-government through these somewhat artificial units our supreme loyalty to India as a whole must not in any form or degree be strained or violated. India does not represent a composite state based on a union of distinct political entities; there is no federation here formed of a union of component sovereign states as in the United States of America. Nor does the pursuit of such a federal ideal by deliberately clothing provincial governments with any marks of sovereignty lead to the realization of what the politically conscious India desire." I still adhere to this view. It is admitted everywhere that considerable decentralization by the Central Government is necessary for efficiency of administration, but this is not inconsistent with the idea of having a Unitary Government. It has, however, to be borne in mind that where a number of provinces with considerable powers exist there must be some method by which their separate administrations are brought

into relation, but this is, I take it, not all that is meant by Federation. The Report throws no particular light on it, but it is clear that in the past a strong Central Government with large immediate contacts with the provinces has been a factor of the utmost importance in this country where disruptive forces are always asserting themselves and where separatist tendencies in the shape of race, religion and language need careful checking. One concrete contribution of the Commission towards the realization of the idea of federation is that the lower House in the Central Legislature, called the Federal Assembly, should be indirectly elected by the Provincial Legislatures. In the Official Memorandum this is described as a further step in the direction of confederation. To a student of constitutional history this comes as a shock. Nowhere in any of the constitutions of Federal Governments is there a single instance of a House corresponding to the Federal Assembly, that is the popular chamber of the Union, being elected indirectly by the legislatures of the Units of the Federal group. The wisdom of constitution makers hitherto has never thought fit to make the federal popular chamber based otherwise than on the suffrage of the whole country. Federation has depended upon other factors. It has been based on the distribution of powers and functions of sovereignty between the Union Government and the members of Confederation so as not to be subject to alteration except with the agreement of both parties, the constituent states possessed of autonomous powers or sovereignty, merging their existence into a Union, part with certain powers and a definite legal position arises, and future changes depend upon the terms of the constitution. Nowhere is the idea of indirect election, even remotely, considered as having anything to do with the idea of a Federation. It is not, as the Official Memorandum would have it, the political tinge from Provincial legislatures derived from indirect election that furnishes any step, much less a basic idea, in the constitution of Federal Governments. This is new wisdom devised for India, and would require strong justification in face of the paramount considerations such as those to which I have referred above, namely :—

(i) the imperious need of checking separatist tendencies;

(ii) the historic necessity established in the course of ages of a firm Central Government with large powers, not merely in the interest of peace and safety, of control and superintendence over the provinces; and

(iii) thirdly, and this political India values particularly, of the need, nay, of the sacred duty, of watching that the growing national sentiment of comparative recent origin in this country suffers no shock or change.

3. I cannot help feeling that the result of the unprecedented step suggested by the Commission in the supposed interests of Federation can only be to affect injuriously Indian national sentiment, and tend to impair the unity of the country in the long run. It will also

seriously impair the efficiency of the Central Legislature, in so far as it will be inspired by the narrow parochial views prevailing in the provinces and no longer view broad questions touching the whole of the country, such as defence and the trade and industry of the land from that all-India point of view so essential for their proper solution.

4. The other basic idea, the principle of flexibility, on which so much stress has been laid by the Commission, is of wide validity, but the Commission has confined it within the narrowest possible limits. In paragraph 95 of their Report the Commission says that it would be open to a legislature to effect certain constitutional amendments of matters of " (*a*) changes in the number, distribution or boundaries of constituencies, or in the number of members returned by them, (*b*) changes in the franchise or in the method of election, or (*c*) changes in the method of representation of particular communities ", under certain very limited conditions. Now the well-recognised meaning of provincial autonomy, an ideal the realization of which political India almost unanimously desires at the earliest possible stage, among other things, is complete responsibility of the executive to the Provincial Legislature. This involves as a necessary consequence that the Governor should occupy the position of what is known as a constitutional Governor. The proper principle of flexibility, even in the Provincial field, to which in this connection the report particularly refers, should provide within the constitution the possibility of this position arising. Of this I see no indication in the report, and, now that the machinery of occasional or periodic parliamentary enquiry is to be abandoned, it is difficult to see how, in this essential regard, the position can be changed. A doubt is therefore expressed, and not unnaturally, by some that the so called principle of flexibility can only have the effect of deferring effective provincial autonomy. Subject to these reflections I entirely endorse the virtue and desirability of having an elastic constitution.

II. Provincial Redistribution.

(Simon Commission Report, paragraphs 27 and 38.)

5. I generally support the views expressed in the Official Memorandum in paragraphs 10 to 14. It is a mistake to raise the question of provincial redistribution at the time of the revision of the constitution. I am not in a position to speak even with regard to the areas for which the Official Memorandum suggests the possible need of early solution, but it appears to me that if enquiries into the question of the separation of Sind are to be instituted the introduction of the new constitution into the Bombay Presidency may have to be deferred, and large and involved questions of finance, with possible reactions on the whole of India, will have to be faced, apart from the extreme undesirability of creating a province by

executive fiat where the result is certainly to be the enthronement into power of a communal party. Government's action in this regard is certain to be misunderstood and bound to lead to local and, probably, wider agitation. On the whole, therefore, it would seem to be wise to defer this question for the time.

III. The Governors' Provinces.

The Provincial Executive.

(Simon Report, Part II, Chapter I, paragraph 46. Paragraphs 15 *et seq* of the Official Memorandum.)

6. I agree with the Report and the Official Memorandum as regards the general character and position of the Ministry, that is,

(i) unitary government responsible to the legislature for the whole provincial field should be established;

(ii) the principle of joint responsibility of the Cabinet should be enforced;

(iii) as a necessary corollary of (ii) it should be constitutionally established that the only vote of censure which could be proposed would be one against the Ministry as a whole carried after due notice; and

(iv) the provision as regards Ministerial salaries should be made by a Provincial Statute, and not be liable to be reduced or denied by a vote in supply.

7. I think the appointment of Under Secretaries as suggested in the Official Memorandum would be a step in the right direction.

8. As regards the inclusion of an official member in the Ministry, I agree with the Official Memorandum that, in this Province at any rate, no such member should be included in the Ministry. The inclusion of such a member would introduce a grave anomaly in an otherwise responsible Cabinet. It would not make for reality so far as joint responsibility of the Cabinet is concerned and it will generally be a source of weakness.

The introduction of an official member in the Ministry is so radically inconsistent with the idea of a Cabinet truly responsible to the legislature that I do not favour such an arrangement in any province, and I do not feel pressed by the consideration that in Presidencies where Governors are directly appointed from England and possess no previous experience of the details of Indian administration and conditions the need for an experienced technical Indian administrator in the Cabinet can override the fundamental principle of true Cabinet responsibility.

In paragraph 16 of the Official Memorandum it is proposed that in view of the fact that—

(i) no official member with technical administrative experience will exist in the Cabinet, and

(ii) the Governor himself will not always be present at the meetings of the Cabinet, a Secretary with certain powers should be appointed. He is described as a Cabinet Secretary with enlarged functions to be called the Principal and Cabinet Secretary. It is difficult to speak with certainty, but it appears that a Secretary clothed with the status here intended and possessed of powers with reference to other departments here contemplated and entitled to address the Cabinet even though without a vote may tend to impair the real authority of the Ministry, particularly if we remember that he is certain to be a very senior member of the Indian Civil Service with possibly near prospects of preferment to a Governorship. If this result should follow it would be an unfortunate consequence. I am not aware that a Secretary of such status and power is associated with responsible Cabinets anywhere else in the world, and the particular need for one in the circumstances of India is not clearly made out to my mind.

9. A circumstance that I should like to mention as of some importance is this, that in provinces where it is customary to appoint to Governors' office senior members of the Indian Civil Service, who now usually occupy the office of official member of the Executive Council, the disappearance of the official member will undoubtedly cause a difficulty. If a senior member of the Service were raised to Governorship without having been a colleague in the Government of the Ministers and who has been technically subordinate to the Ministers until the eve of his appointment it would obviously constitute an awkward position.

10. I agree that the power be reserved to the Governor to appoint a non-official as a Minister who is not an elected member of the legislature in the circumstances set forth in paragraph 16 of the Official Memorandum.

11. I am in general agreement with paragraph 17 of the Official Memorandum as regards the selection of the Cabinet. The appointment of a Chief Minister should be a matter discretionary with the Governor depending upon the circumstances of each Province. It is easy to see what the Simon Commission Report says at the end of paragraph 55 that " in some circumstances the formation of a Ministry from different communities might present less difficulties if there was no Chief Minister and no recognized leadership of the Ministry." It is clear that in the Punjab no Ministry would be just or proper or desirable which did not include members from the three leading communities of the Province, even though, if official recommendations regarding communal proportions in the Council are adopted, a solely Muslim ministry can carry on, particularly if a few non-Mohammadans and Sikhs can be detached from their normal grouping, as is not unlikely in view of past experience.

12. A reference is made in paragraph 17 of the Official Memorandum to the need of including members from the three

leading communities into the Cabinet because the present parties are constituted on a communal basis. It follows as a necessary corollary in view of the fact that in the past a few Hindus have found themselves ranged in the Muslim group that no representation in the Cabinet of Hindus, a most important minority in the Punjab, will be acceptable to that community unless the selection were made from the Hindu group proper.

13. I am in general agreement with the Official Memorandum in paragraph 18 as regards the Governor's presence at Cabinet meetings and the right of a Minister to record a minute of dissent.

(Paragraphs 19; 20 and 21 of the Official Memorandum and paragraph 50 read with paragraph 182 of the Simon Commission Report.)

14. It is obvious that where safeguards are necessary they can be enforced only through the Governor, and also in case of a breakdown power must vest in the Governor to carry on administration, and I find myself in general agreement with the view expressed in paragraph 20 of the Official Memorandum. There is great force in clothing the Governor with special powers where the financial stability of the Province may be in danger.

But it must not be forgotten that the real demand of the people is that the transference of the present reserved subjects to the Ministers should not form any occasion for increase, however indirectly, in the power of the executive as represented by the Governor, and that not merely with regard to subjects now transferred, but also as regards those which are to be hereafter transferred, such as Law and Order, in other words general powers should be on the same footing with regard to all subjects. Political India's demand is for a constitutional Governor. In the Simon Commission Report, as I have already remarked, though so much stress is laid on the principle of growth within the constitution, no provision is made for any approach towards this position.

B. *The Provincial Legislature.*

(Paragraph 23 of the Official Memorandum.)

15. *Size of Provincial Councils.*—The recommendation of the Simon Commission that the Provincial Councils should be as large as between 200 and 250 is not suitable to the conditions of this Province. I do not propose to define the exact numbers, but I should like to point out that, though the elected strength of the present Council is only 71 members, we have a fair proportion of members who would not normally find a place in a legislature representing over 20 millions of people. The official proposal is to raise the total to 134, and this without the official *bloc* and nearly all elected. In paragraph 44 of the Official Memorandum, in dealing

with the question of a second chamber, it is said that " a Legislative Council expanded even to the moderate dimensions we have proposed will absorb for some time to come all that we can reasonably expect to secure in the way of persons fitted for the exercise of legislative functions." I regard this as an unduly optimistic interpretation of existing facts not borne out by the recent or past history of our Chamber. The more correct position is that stated in paragraph 23 of the Official Memorandum, where it is said : " We see no useful purpose which would be served by making the Council larger, and, on the contrary, think that such an increase of size might result in deterioration in the quality of members returned. In the Punjab, with few large industries and with the bulk of the land held by small peasant proprietors, the number of men of a responsible character who have leisure to devote time to work on a legislature is few." In view of this I have no hesitation in saying that we ought in no case to go beyond 134 members, and should really try to keep a more compact House, particularly as it would be possible for the House itself to expand by its own resolution later on if found desirable.

16. The opinion of the Simon Commission to maintain separate communal representation is the saddest part of the report from the point of view of a nationalist. It brings despair to those who had looked forward to an outside body to resolve the unhappy obstacle that must bar India making any progress on the path of democracy and real parliamentary Government. I expressed my views on this subject at some length in paragraphs 7, 14, 15, 16 and 19 of the Minutes of the Unofficial Members submitted to the Indian Statutory Commission. It is clear from the Official Memorandum submitted to the Simon Commission paragraphs 7 and 17 " that the predominant lines of cleavage are still communal though an effort has been made to give it a political tinge. The electorate at the moment thinks and acts communally and until the communal factor ceases to be paramount the most stable parties will be fundamentally communal. The result is that the parliamentary system under which one party gives place to another on account of a change of allegiance on the part of a portion of the electors or their representatives will have in the near future no counterpart in the Punjab ", and further the authors of the Official Memorandum to the Statutory Commission recognized that this position is " to some extent stereotyped by the fixation of the proportion of seats on a communal basis ". As I then said " the present system enshrines a non-political principle in the bosom of the constitution itself ". It was, therefore, not to be wondered at that the makings of parliamentary Government did not exist in India and genuine party system based on policy rather than class divisions, factions and interests could not grow. If the recommendations of the Commission on the question of separate representation of communities is to be given effect to, anti-political class and

communal divisions will be *permanently stereotyped*, for it is not to be expected that later amendments by constitutional resolutions contemplated in paragraph 95 of the Report will lead to any escape from this vicious and undemocratic principle, particularly as there is no reason to image that communities favoured under the arrangements now to be made would wish to renounce their positions of advantage. Some have thought, and with much justice, that one of the main tasks that lay upon a Commission that came to study problems and devise schemes of real responsibility and democratic Government, was boldly to find a way out of the present communal morass, and their failure to prescribe for India's ills in this regard is failure in the fundamental task of conceiving a proper polity for India.

17. On the details of the official views on communal representation, I regret that I have large differences to record. On the general question of communal representation particularly the number of Muhammadan seats the Commission has taken the short course of adopting the Lucknow Pact which was entered into some 13 or 14 years ago with reference to the conditions then prevailing and have recommended in paragraph 85 that while in 6 out of the 8 provinces the present scale of weightage in favour of Muhammadans might properly be retained, in the Punjab in regard to *general* constituencies the present position should continue, that is, Muhammadan seats should be equal to the seats given to Hindus and Sikhs. The Commission " is not prepared to go so far as to give Muhammadans a fixed and unalterable majority in the general constituency seats in the Punjab ". Our Official Memorandum, however, considers this illogical and would give the Muhammadans a clear majority over the other two major communities both in the general constituencies and in the total composition of the Legislative Council.

18. In paragraph 31, which deals with general constituencies, the authors of the Official Memorandum propose to increase the Muslim seats from 32 to 63.

Hindus from 20 to 36
and Sikhs from 12 to 23

resulting in a total of 63 for Muslims as against 59 for the other two communities. In the total composition of the House they would give 66 to Muslims and 64 to the other two communities even if we accept the official view as regards the communities to which certain special seats will fall. This official allocation of seats I cannot endorse. It is difficult to see why in practically doubling the seats in the general constituencies the Hindu position should be worse than it is to-day, and similarly why an important community like the Hindus should have less than its proportion in the population. In the total composition of the House the Hindus out of 134 seats according to their population ratio of more than 31½ per cent. (and not 31 per cent. as the Official Memorandum

speaks of them in paragraph 30, *vide* paragraph 85 of the Simon Commission Report, Volume I, where exact numbers are given) would be entitled to a little over 42 seats, and yet the official recommendation is for 40 seats even if we regard the special seats to be correctly appraised in the Official Memorandum. No reason whatsoever is given why the Hindus should have a smaller representation than would be justified either by their proportion in the population or by their proportion in the voting strength. As a matter of fact the same considerations that were allowed to weigh in giving heavy weightage to Muslims in 6 Provinces and to Sikhs in the Punjab have full validity in justifying an adequate improvement in the position of the Hindu minority here beyond their population basis. (I am not speaking on the merits of the Sikh claims to have further and larger weightage given to them for special reasons urged by them.)

19. In this connection we have to remember further how the Hindu position would deteriorate because—

(i) of the removal of the official *bloc* which had tempered any extravagant communal claim on the part of a community that had majority representation, and

(ii) also that the Muslim Members represent a solid compact *bloc* to which at least some Hindus have throughout the history of the Council been attracted for reasons which it is not necessary to canvass here and thus reducing the Hindu figures below their proper strength. Nor can we forget the general attractional force which is bound to make the Europeans and Christians, apart from other considerations, gravitate towards the largest group in the House.

20. We must further remember that a clear communal majority and political domination on the part of a single community particularly in the circumstances of the Punjab over the other two leading communities should not be permitted because it is not giving effect to any proper political principle and the object of a responsible political system even in India cannot be to enthrone a community as such in political domination. The Hindus, and I think the Sikhs, have made no secret of this, that, if communal representation were not to exist, they are prepared to take their places in the fortunes of any general election even though that might be to reduce their position below their present strength, but they are equally emphatic that by no statute or rule should political domination be given merely to a religious community. In any event it is clear that the position of an important minority, if not actually improved, should not be made worse than it is at the present moment. As I have said above I have failed to discover in the Official Memorandum any justification or reason for proposing to worsen the Hindu position. The Hindus of the Punjab constitute a minority, that judged by every standard justifying special consideration should receive additional representation as a

minority : they have high voting qualifications, they have undertaken heavy sacrifices in the cause of general social reform, and have pursued successfully expensive programmes of educational work (at Lahore they have 3 Colleges as against one Muslim and in the Mufassil they have established a large number of high schools, Intermediate Colleges and one degree institution), and they take a notable position in all progressive movements. Political training, educational advance, economic strength alike point to special consideration for the Hindus here, once the standard of population is departed from in any part of India and communal representation is enforced.

In the Punjab the insistence on separate electorates is made by the community that is in the majority.

21. Paragraph 33 of the Official Memorandum throws a considerable light on the voting strength of the various communities.

22. Coming to the special seats, I think, they ought to be kept completely outside the purview of communal calculation. This principle is well recognized in the Montagu-Chelmsford report and other constitutional documents of importance. With regard to the details of special seats referred to in paragraph 31 of the Official Memorandum I would point out that it is erroneous to consider the University, Industry and Commerce seats as Hindu. These seats are not reserved for Hindus and non-Hindus do stand and compete and influence elections, and the constituencies are non-communal and presumably affect representation. In the University constituency the position is such that in case of a contest if the number of Hindu candidates was more than two, as has not been unknown, a Muslim has a fair chance of return.

Commerce.—This seat has during the last three elections gone to a European Christian and I cannot see that it should be now considered as one which will necessarily fall to the lot of the Hindu.

Depressed Classes.—I do not favour that a further schism should be created in the already unfortunately small number of Hindu seats by giving one to the depressed classes as such. The Official Memorandum does recognize in paragraph 25 that their numbers are apt to be exaggerated, they do not represent a pressing problem in the Punjab, some of them at any rate will come through general constituencies because of the enfranchisement of tenants and some might get representation in the special labour constituency. The Hindu depressed classes do not as such represent any special economic position. In the circumstances, particularly as a special constituency cannot be created for them, I do not agree that a nominated representative from out of the Hindu members can be properly carved out for them.

The additional labour seat is regarded indeterminate by the authors of the Official Memorandum. It appears to me that this seat is almost certain to be a Muslim seat. They represent the

larger mass of labour in urban areas where alone a constituency such as is contemplated can be created.

At present a special constituency exists for Industry, and I can see no reason why this should be dropped. Industries represent a big and growing interest and if special representation is to exist at all Industry certainly is clearly marked for distinct recognition, especially as the number of industrial concerns is now on the increase. All the circumstances that led to the creation of the seat have gained in strength since 1920.

On the question of landholders constituencies I am in entire agreement with the report of the Simon Commission. Large landholders occupy a very prominent place in our legislature even at the present moment and there is no reason why their presence should be secured by the device of special representation or their numbers increased. In the Official Memorandum it is proposed to increase the number of Muslim landholders from 1 to 2.

The retention of a seat for the small and special class of the Tumandars of Dera Ghazi Khan—a district only a part of which can be regarded as properly Punjab—seems to have no justification whatsoever. No Tumandar interests have occupied the attention of the Legislature during the past ten years, and to give one seat to a constituency of only ten votes appears to be the negation of all sound principles of special representation.

To sum up, in my view therefore the Industry seat should be retained, there is no occasion to have special seat for the depressed classes to be filled up by nomination from out of the Hindu seats, the special representation of landholders should cease and the Tumandar seat should be abolished. I agree to a seat for Christians, one also for labour and the seats proposed for Europeans though it must be remembered that, in so far as these seats constitute representation beyond what would be justified by their strength in the population, they tend to affect adversely the Hindus and the Sikhs more than the Muslims.

23. I apprehend that the deterioration proposed in the Hindu position in the Official Memorandum will have most unfortunate consequences throughout the country : *heavy weightage at the cost of Hindus to Muslims in other Provinces, depression of Hindus below both their population strength and voting strength in the Punjab where they are in a minority.*

Paragraph 33 *of the Official Memorandum.*—Even this rough calculation of voting strength indicates that the Hindus should receive a larger measure of representation.

24. I agree with paragraph 34 of the Official Memorandum.

25. *Paragraphs* 35 *and* 36.—I have already said that the seat for industry should not be abolished. I see no reason to differ from the conclusions of the Commission with regard to landlords.

26. *Paragraph* 37.—I agree that the nomination should be limited very narrowly but as I have said already it would not be proper to carve a seat for the depressed classes from the already very inadequate Hindu representation.

27. *Paragraph* 39 *of the Official Memorandum. Paragraph* 95 *of the Commission's Report.*—I agree that a constitutional resolution such as mentioned should be competent for a legislature but I see no great likelihood of any good emerging from it if communal and separate electorates are fixed now.

C. *The Franchise* (*Chapter* 3).

I agree with sub-paragraphs (1) and (2) of paragraph 42 of the Official Memorandum. It is desirable that the disparity between the percentages of enfranchised urban and rural populations respectively should be reduced, and also that a portion of the tenants of land should receive vote. But I regret that the authors of the Official Memorandum differ from the Simon Commission Report as regards the enfranchisement of women. Further, in paragraph 106 of the Commission's Report it is suggested that it might be desirable to introduce an additional qualification based on education independently of property such, for example, as the attainment of the 5th class before leaving school. In sub-paragraph (4) of paragraph 42 of the Official Memorandum it is not prepared to give the right of vote even to those who have passed the Matriculation Examination of any University which is much higher than what was contemplated by the Simon Commission Report. I am very clearly of opinion that this additional franchise based on the Matriculation Examination should be created. It will not add to any large extent to the electoral roll and it might have some encouraging effect on the progress of education and I am sure would be popular.

29. *Paragraph* 43 *of the Official Memorandum.*—I am in general agreement with the view expressed in this paragraph that it will not be desirable at the present stage to reduce property qualifications below what might result in more than doubling the present number of voters. In fact it is doubtful whether such a big step should be taken at once.

The factors involved in lowering the qualifications are so complex that they can only be investigated by a special committee on franchise, such as is suggested in the Simon Commission Report.

D. *The Second Chamber* (*Chapter* 4).

30. I am also of the opinion that, so far as this Province is concerned, the balance of argument is against having a second Chamber. I am not sufficiently familiar with conditions in other provinces but my opinion is that the general circumstances which led the authors of the Montagu-Chelmsford Report to regard the

second Chamber as impracticable, and unnecessary in provinces still hold good, and the argument of Abbé Siéyes about the superfluous character of a second Chamber apply at any rate so far as the constituent legislatures of any federation are concerned.

IV.—The Backward Tracts.

(Part III, Chapter 2.)

31. *Paragraphs 47 and 48 of the Official Memorandum.*—I fully agree with the views expressed in these paragraphs.

V.—The Centre.

(Report Part IV.)

A. *The Federal Assembly.*

32. *Paragraph 49 of the Official Memorandum.*—I have already said that I deprecate the idea of indirect election for the Federal Assembly. There is no precedent for it in the history of Federations. It will tend to impair the efficiency of the Chamber as an organ for the expression of opinion on subjects of vital Indian interests or on legislating on these subjects.

I find it difficult, partly in view of the fact that I have not accepted the official recommendations as regards the numbers of our Council or their allocation among the various communities, to work out the probable effects of the method of proportional representation in case indirect election is adopted.

33. *Paragraph 50 of the Official Memorandum.*—I fully agree that it will not be possible nor would it be appropriate that a person should be a member of both legislatures at one and the same time.

34. *Paragraph 51 of the Official Memorandum.*—There is not enough material to indicate whether the communal proportions calculated in paragraphs 143 and 145 of the Simon Commission Report would actually result. I wish to make no observations about the feelings of any one community that their representation in the Assembly should substantially exceed their proportion in the population of the country, but it is clear that if any such weightage is to be given to any community in the Assembly the case for the Hindus in the Punjab for substantial weightage beyond that indicated by their numbers would further gain in strength.

In paragraph 52 of the Official Memorandum the method advocated in paragraph 139 of the Simon Commission Report to secure representation for various classes and interests is described as one proceeding mainly on federal lines. I do not see how this method proceeds on any lines that can be properly described as federal, but it is possible that the method may secure some approach to a due

share of representation to the various communities (i.e., if " due " is used in the technical sense of reflection of members belonging to a particular community in a province) irrespective of whether this representation is in itself fair or just. But I am not clear that the method will secure adequate representation for such interests as industry, commerce and finance.

B. *The Council of State.*

35. *Paragraph 54 of the Official Memorandum.*—I support a Second Chamber in the Central Legislature, and that its term should be seven years. A bicameral system exists in most countries and the need for it is recognized.

As regards the number, in my view it should not be less than half the size of the Assembly, otherwise its voice will not have its proper weight in a joint session. I have no strong feelings about what proportion of such a House should be elected and what nominated, nor as regards the composition of the nominated members.

36. *Paragraphs 54 and 55 of the Official Memorandum.*—On the whole I am in favour of direct election. The electorate is at once highly qualified and small and there is no occasion for resort to indirect election. The one essential for the composition of an upper House is that it should not be a mere replica of the lower House and at the same time should not interfere with proper democratic form of Government.

37. *Paragraph 57 of the Official Memorandum. The Power of Legislation of the Central Government.*—I am in agreement with the recommendations contained in the Simon Commission Report and would deprecate all attempts to restrict the range of the legislative powers at the Centre. There is no occasion for unnecessary suspicion against the Central Legislature. Abundant safeguards, as pointed out in this paragraph, are already available and the concurrent jurisdiction of the Central Legislature where it exists should not be curtailed. I also agree with the opinion expressed at the close of paragraph 155 of the Commission's Report.

C. *The Governor General in Council.*

38. I share the general Indian opinion that a certain measure of responsibility should be introduced in the Central Executive, and the Indian demand on this head is well known and I find myself in general agreement with it. I am not impressed by the arguments urged in paragraph 60 of the Official Memorandum for deferring this responsibility at the Centre. The force of Indian sentiment is a powerful political fact which cannot be ignored. The responsive spirit to which the Official Memorandum refers in paragraph 63 affords no substitute for the clear demand made by political India, and it is doubtful whether the Commission's report

really makes any provision for the growth of such a spirit. The device that the Members of his Executive Council should be appointed by the Governor General in place of the present system of appointments being made on the advice of the Secretary of State for India by His Majesty and the possible occasional selection of an elected member would not secure the object. On the other hand if the present system is to continue, that is, there is to be no responsibility at the Centre, my opinion is that the existing system of appointments should not be disturbed because that will be the only method of securing some measure of independence for members of the Executive Council.

D. *Relations between the Centre and the Provinces.*

39. *Paragraphs* 68 *to* 71 *of the Official Memorandum.*—I am in general agreement with these paragraphs of the Official Memorandum.

VI.—THE QUESTION OF DEFENCE AND THE ARMY.

40. The Simon Commission Report emphasizes that for a " very long time to come it will be impossible for the Army entrusted with the task of defending India to dispense with a very considerable British element ". It conveys a strong warning against what it describes as " a precipitate embarkation on a wholsale process of substituting Indian for British personnel ". It speaks of the " difficulty almost insurmountable of relinquishing control over an Army so composed to any Ministers responsible to an elected legislature ". Such a transfer according to the Report " could only take place when no part of the Army in India consists of British Officers or troops recruited by the Imperial Government ", and it sees no prospect of this happening for many years. A complete Indianized Army is not within sight at all. The Report then proceeds to emphasize the Imperial aspect of Frontier defence. It then comes to the conclusion that in view of this and other circumstances the Army in India should be removed from the control of the Government of India and placed under an Imperial Agency. " India and Britain are so related that Indian defence cannot now or in any future which is within sight be regarded as a matter of purely Indian concern." It propounds the strange doctrine that the " protection of the frontiers of India at any rate for a long time to come should not be regarded as a function of an Indian Government in relation with an Indian Legislature but as a matter of supreme concern to the whole Empire which can only be effectively organised and controlled by an Imperial Agency ". It therefore inevitably follows that the forces composing the " existing Army in India would no longer be under the control of the Government of India, but an Imperial authority which would naturally be the Viceroy acting in concert with the Commander-in-Chief " should have charge of this army.

Now it is obvious that no responsible Government in India can be established unless the country is able to look after its own defence. The Commission removes India's defence from India's control and yet for some reason, which it is not easy to see, in paragraph 208 of their Report, the Commission regards their scheme as removing a block on the line of India's constitutional advance. In paragraph 214 the possibility of their scheme being regarded as " a derogation from the full range of Indian aspirations " is considered, but an answer is offered at the end of the paragraph in words from which I at any rate have not been able to spell out any meaning.

41. In paragraph 211 of their Report the Commission speaks of the possibility of an alternative Dominion Army containing no British element which the Government of India might organize. The Commission does recognize that there is no finance available for the development of such a force because of the heavy contribution which India already makes towards the maintenance of the present Army. It is not even pointed out that as this Dominion Army grows, *pro tanto*, there might be a corresponding reduction in the existing Army to be hereafter regarded the Imperial Army. It is difficult therefore to understand what the Commission means at the end of the paragraph by saying " We appreciate the fact, however, that in the end a self-governing India can only hope to function with reasonable prospect of success if it can command military forces of its own, and our proposal helps to remove an obstacle to the ultimate possession of such forces ". An adequate military force of its own will certainly cost India something approaching what the present Army costs. Is it then to be expected that India can by some magic out of her limited resources find itself one day in possession of such a Dominion Army side by side with the existing (Imperial) Army? It appears therefore that if Indian political advance can be secured only by looking after her own defences the proposals of the Commission postpone this date to the Greek Kalends.

42. In paragraph 74 of the Official Memorandum the main features of the Commission's scheme are set forth and later a reference is made to the eventual emergence of a Dominion Army and the position during the transitional period. As I have already remarked, so far as the Commission is concerned, the limit of transition period is not discernible as far as the eye of man can penetrate, and the Indianized Dominion force can really never materialize.

43. In paragraph 77 of the Official Memorandum opinions are expressed about the Indian feeling on the more rapid growth of Indianization. With these I am in full sympathy.

The proposals of the Commission while they fail in the supreme test which is to be applied to all constitutional proposals for this country, i.e., how far they envisage a rapid movement towards

responsible Government do not make clear why even the present contact with the Army that the Government of India has should disappear. While the demand of political India is that the control of defence may be kept from a responsible executive only for the short period of transition, the Commission roundly suggests that the Government of India should have nothing to do with defence!

44. I agree with the Official Memorandum, paragraph 78, that if a Committee is to be all the contact which the Government of India is to have with the Army we may ask for the enlargement of the functions of this Committee such as are suggested in paragraph 78 of the Official Memorandum. I do not, however, see the exact force of the suggestion that Indian members of the Governor General's Executive Council should be included in this Committee unless it is intended to be a counterpart of the claim made by many thoughtful Indians that, while the subject of defence continues reserved, the Member in charge should be an Indian Member of the Governor General's Executive Council.

45. I am in general agreement with paragraph 79 of the Official Memorandum.

46. I agree with paragraph 170 of the Commission's Report that the Commander-in-Chief should no longer be a Member of the Cabinet or in the Legislature, but I am distinctly of opinion that questions of defence should fall within the portfolio of a Member of the Executive Council and should not be dealt with merely by an Army Secretary.

VII.—Finance.

(Report Part VIII.)

47. The Official Memorandum does not attempt to deal with the details of Sir William Layton's scheme because of the lack of necessary data for adequate expression. I have also felt that in this scheme expectations of revenue and estimates of income and economies in the growth of Central expenditure are framed on an unduly optimistic basis. Some of the features of the scheme, however, can be fully endorsed, such, for example, as the recognition of the need of the provinces to expand especially in nation building activities.

48. On the question of surcharge on personal income I had occasion to express my views in the Minute which I submitted to the Simon Commission. (This is partly reproduced below for convenience of reference.) I do not agree with the suggestion made in paragraph 82 of the present Official Memorandum that the Provincial Government should have the discretion to tax incomes below the present exemption limit of Rs.2,000. This would probably occasion a " disparity in the system of income tax between the various provinces and it is obvious that this must be

open to grave objections as such taxes are not only likely to be evaded, but calculated to injure trade and industry in a province. Nor are the political consequences of placing such power in the hands of a legislature predominantly rural and non-income-tax-paying to be ignored. The system of income tax including as an essential factor an exemption minimum, must be uniform throughout the country—a departure from this well accepted principle will be economically without warrant and politically undesirable."

49. I wish to offer at this stage no observations on the new Provincial taxes referred to in paragraph 83 of the Official Memorandum.

50. *Paragraph* 86 *of the Official Memorandum.*—I agree on the general question for adequate safeguards against the most populous provinces imposing their will on other provinces.

51. I am also in agreement with paragraphs 88 to 92 of the Official Memorandum.

VIII.—The Services.

(Report Part IX.)

52. In regard to services two considerations offer themselves:

(i) it is undoubtedly necessary that for some period of time All-India Services even in a newly reserved Provincial field must continue, and probably the best method of recruitment for these is by the Secretary of State for reasons detailed in paragraph 93 of the Official Memorandum. The Memorandum, however, does not define the transition period during which this obvious constitutional anomaly must continue. Complete authority as regards recruitment and control of public services is necessarily implicit in any full system of responsible Government.

(ii) the second important consideration is that the continuance of these services should not so operate as to defer even by a single day the achievement of full responsibility, and this is the test which must control our views as regards the services.

In my view the date, 1949, suggested by the Official Memorandum for a reconsideration, is far too remote and if political conditions which India desires are to obtain I am distinctly of opinion that Indianization will have to proceed much faster than at the rate contemplated by the Lee Commission.

It is not necessary for me to enter into the details of privileges which have to be conceded either to existing officers in All-India Services or to future recruits but it may be said that while all

proper safeguards for existing officers must continue it would be impolitic and unfair to extend their privileges as regards retirement or otherwise beyond what are secured to them at the present time, and as regards future recruits special privileges should be confined within the strictest limits so as not to conflict unduly with the rights of a responsible executive to control services.

53. *Paragraph* 102 *of the Official Memorandum.*—I agree that a Provincial Public Services Commission should be established.

I fear that in our services the paramount interests of efficiency are not infrequently ignored as concessions to communal claims. The evil is so persistent that the necessity of adoption of suitable safeguards even by regulation by Statute is often strongly urged. The expression " just and reasonable claims " of any community is difficult to define. In the Punjab this has taken a double shape. Firstly admission in the Professional Colleges is itself regulated along communal lines and even then the successful candidates have not the chance of admission into Government service on the basis of efficiency. The claims of communities have to be considered for a second time. The position is further complicated by the fact that definite policies have been laid with regard to the recruitment of agriculturists as such to public services. The double requirements of communities and of belonging to a particular profession have to be satisfied and it is not difficult to see how the interests of efficiency must suffer in arrangements of this character. I entirely agree with the official view that fixed percentages or recital of rights in Statute appear to introduce an element of undue regimentation, and the matter must be left, so far as possible, to the general discretion and powers of the Governor.

IX.—The High Courts.

(Simon Commission Report, Part X.)

54. I am in entire agreement with the recommendations of the Simon Commission in Part X of their report. The administrative and financial control of the High Court and its establishments, buildings, contingencies, etc., should be assumed by the Governor General in Council and these matters should be a charge on Central revenues as recommended by the Commission. There need, however, be no change in the functions of the provincial executive in connection with the administration of the subordinate judiciary and their relations with the High Court in this connection. I am unable to accept the arguments in paragraph 109 of the Official Memorandum where a doubt is cast on the validity of the recommendations of the Commission. The High Courts have considerable power under the Letters Patent in connection

with their establishments and these powers should not in any manner be curtailed and should receive their full scope as would be possible under the recommendations of the Commission.

Relations between the Home and Indian Governments.
(Simon Commission Report, part XI.)

55. *Paragraph* 110 *of the Official Memorandum.*—I agree.

MANOHAR LAL,
Minister for Education, Punjab.

The 11th August, 1930.

Letter from the Chief Secretary to the Government of the Punjab, No. 6504-S.-Reforms, dated the 16th September, 1930.

In continuation of Mr. Irving's letter No. 4706-S.-Reforms, dated the 14th August, 1930, I am directed to forward a copy of a supplementary note by the Honourable Captain Sikandar Hayat Khan, the Honourable Sir Jogendra Singh and the Honourable Malik Firoz Khan Noon with regard to the proposals contained in the Simon Commission Report. I am also to forward a copy of a note by the Honourable Mr. Manohar Lal on the same subject. I am to say that the Governor in Council (excluding the Honourable Revenue Member who has signed one of these notes) has nothing to add to the opinion already expressed and communicated to the Government of India.

We have already in our notes laid emphasis on the need of special representation of the land-holders. It is our considered opinion that these interests should be fully and adequately represented both in the Provincial and Central legislatures not only to safeguard the interests of this important class, but also to provide the necessary steadying influence, in India's march towards democracy. One of us, Malik Firoz Khan Noon, is of opinion that in the absence of a second chamber and in view of the impending lowering of franchise and enfranchisement of tenants, it will be unsafe to provide less than 15 out of 135 seats for the land-holding classes in the Provincial unicameral legislature. We sympathise with this proposal and are of opinion that land-holding interests should find as large a representation as possible, but in case Malik Firoz Khan Noon's proposal is not accepted, we feel, that there ought to be at least five land-holders' seats for the Province from joint electorates.

SIKANDAR HAYAT KHAN.
JOGENDRA SINGH.
FIROZ KHAN NOON.

The 12th September, 1930.

I have read this note and see no reason to change my opinion already recorded. The arguments now advanced do not appear to me to possess any real validity. There is no reason why an express provision should be made for reserving 15 seats out of 135 for land-holding classes as a large number of rural seats are anyhow certain to be held by members of this class. Nor am I able to accept the proposal that at least five land-holders' seats from joint electorates should be secured. The note does not say how these five seats are to be divided between the various communities, nor is it clear whether it is intended to throw open the five seats in joint electorates, each voter having the right to vote for any five candidates without restriction. In view, however, of my general opinion about special representation to land-holders it is not necessary for me to examine this last point in any detail.

MANOHAR LAL,
Minister for Education, Punjab.

The 13th September, 1930.

BURMA GOVERNMENT.

From T. Lister, Esq., I.C.S., the Secretary to the Government of Burma, Reforms Office, to the Secretary to the Government of India, Reforms Office, No. 392-D30, dated Rangoon, the 13th August, 1930.

SUBJECT.—*Report of Indian Statutory Commission.*

I am directed to reply to your letter No. F.67—30R., dated the 24th June, 1930, with which you forwarded a copy of letter No. F.67—30R. of the same date to other Local Governments on the recommendations of the Indian Statutory Commission and requested the views of this Government on the portions of the Report of special applicability to Burma. You also invited an expression of any views the Government of Burma might desire to make on the other recommendations of the Commission.

2. *The Separation of Burma from India.*—The Commission have given special consideration to the problem of Burma, and have recorded a unanimous opinion that Burma should be separated from India forthwith. The Government of Burma do not think it necessary to examine at any great length the reasons why the Commission have arrived at this conclusion. The conclusion is based on a memorandum prepared by this Government. That memorandum did not purport to do more than examine in a detached and impartial spirit the arguments for and against separation. The Government of Burma arrived at no conclusion in the memorandum, and made no recommendation. Their object was merely to state the case as fairly as they could for consideration by the Commission, and great weight must be attached to the fact that so impartial and authoritative a body have come down so decidedly in favour of separation. Moreover the statement of the case in paragraph 219 of Volume II of the Commission's Report is unquestionably correct. In this paragraph they mention that on the 18th February, 1929, the Burma Legislative Council passed without a division a motion in favour of the separation of Burma from India. On the 9th August, 1930, the Council passed, again without a division, a motion thanking " the Members of the Statutory Commission for having in accordance with the wishes of the people of Burma recommended the immediate separation of Burma from India," and requesting " His Majesty's Government to make an early declaration of the acceptance of their recommendation." In neither case did the Government take any part in the debate. It is quite true that Burman politicians of extreme political views who have refused to work the present constitution still believe that Burma would get full responsible government earlier if she remained part of British India, but they wish merely to postpone the day of

separation. The Government of Burma believe that they are correct in saying that even these Burmans recognize that ultimate separation is inevitable. The vast majority of Burmans appear to be whole-heartedly in favour of the immediate separation of Burma from India, and the recommendation of the Commission has been received by Burmans generally with genuine pleasure and satisfaction. If for any reason Parliament find themselves unable to accept the recommendation in favour of separation, the disappointment in Burma will be correspondingly great. Burmans (in which term for their present purposes the Government include all races indigenous to Burma) outnumber so greatly all other communities in Burma that it does not seem necessary to discuss in great detail the attitude of minority communities towards the recommendation. The Indian community naturally regards it with dislike. For obvious reasons they would prefer that Burma should remain part of British India, and also no doubt partly as the result of the recent disturbances in Rangoon, they look forward to separation with some apprehension. But as far as the Government of Burma are aware, the attitude of thinking Indians resident in Burma is quite correct. They recognize that if Burmans generally, after full consideration of the issues involved, desire that Burma should be separated from India, that desire should be acceded to, unless it can be demonstrated that for financial, military or other reasons separation is not a practicable proposition. Most of them recognize too that it will be difficult to establish a caveat of this kind in face of the reasoned conclusion of the Commission, and it is probable that they will concentrate mainly on securing protection for their interests in the new constitution of Burma. The Commission at the end of paragraph 223 of their Report expressed an opinion that provision of this kind should be made in the new constitution, and the Government of Burma take this opportunity of recording their concurrence in this proposal. The European business community in Burma has a great stake in the country, and its influence is out of all proportion to its numerical strength. The Burma Chamber of Commerce is the medium through which the more important section of this community expresses its views on matters of public interest, and this Chamber has stated that it is "entirely in agreement with the principle of separation of Burma from India as recommended in the Report." It considers, however, that it is essential that "a trade convention should be arranged which would as far as possible maintain a state of free trade between the two countries," and it also emphasizes that the new constitution of Burma should make due provision for the protection of the interests of the non-Burman communities. The Government have already expressed their concurrence in this latter suggestion, and they will deal later with the question of a Trade Convention. For their own part, the Government of Burma are strongly in favour of the Commission's recommendation, and they regard the case

for separation as overwhelming. In expressing this view, they take their stand mainly on the fundamental considerations advanced by the Commission. Burma is an entirely separate country from India, and the Burmans are an entirely separate people. They are not bound to India by any ties of common race or common language or common sentiment. They are not, and never can be part of an Indian nation. As long as there was an autocratic British Government in India, it was convenient to place Burma under the control of that Government, and the position was accepted by the people of Burma, though from time to time symptoms of discontent did manifest themselves. But as soon as His Majesty's Government announced that their policy was gradually to establish full responsible government in India, and as soon as they took the first steps towards that end, the situation began fundamentally to change. Many of the most important and vital functions of government in India are vested in the Central Government, and it was not long before two things became quite plain to thinking Burmans. The first was that the Indian legislature would exercise increasing influence over the Government of India in the discharge of those functions until ultimately the Government would become completely responsible to it, and the second was that from the nature of things Burmans could never hope to have an effective voice in shaping policy in that legislature. The population of Burma is very small compared with that of British India, and Burma representation can never be large in the Indian legislature. Moreover, it was not long before the practical disadvantages of the position were brought home to the people of Burma. The fiscal convention transferred a large measure of control over the fiscal policy of British India to the Indian legislature, with the result that the Government of India embarked on their policy of discriminating protection. At once it became evident that the economic interests of Burma did not always coincide with those of India, and that whenever there was a clash, the interests of the smaller country must inevitably give way. The consequence has been that in recent years the demand for separation has become more and more insistent, and it is not too much to say that as far as Burma is concerned, it was the dominant issue before the Statutory Commission. Now that the Commission have reported so strongly in favour of separation, the demand has become more insistent than ever. In fact it has reached a pitch at which it would be impolitic and unwise to resist it. The Commission have gone so far as to say that " nothing but the most overwhelming considerations would justify the continued retention of Burma within the Government of India," and they have recorded their deliberate opinion that those overwhelming considerations do not exist. The Government of Burma are entirely in agreement with this view. Their considered opinion is that the Government of India and His Majesty's Government should accept the recommendation that Burma should be separated from India.

3. In the rest of this letter I am to proceed on the assumption that the recommendation will be accepted, and I am to deal with the more important questions which will require consideration in connection with the process of separation.

4. *The Time-Table.*—The first of these questions is that of the time-table. The Commission's actual recommendation is that "separation should take place now," but the context shows that their intention was merely that the question of principle should be decided with as little delay as possible. Their objective was that the new Government of Burma Act should come into force simultaneously with the new Government of India Act, and they pressed for an early decision on the question of principle in order that as much time as possible might be available for all the preliminary work which must be done before separation can become an accomplished fact. It is obvious that this view must be accepted, and that the time-table of the Government of Burma must keep pace with that of the Government of India. The Government of Burma have no means of knowing when the new Government of India Act will come into being, but they are entitled to assume that no avoidable delay will be allowed to occur in giving British India her new constitution. On the other hand, they are impressed by the amount of preliminary work which must be done before the Government of Burma can become independent of the Government of India. A new constitution has to be devised for Burma as well as for India. The difference is that the Statutory Commission have not attempted this task for Burma, and have contented themselves with saying that further enquiry will be necessary before the new constitution can be framed. A settlement has to be arrived at with the Government of India on the difficult financial issues and questions involved in separation. The question of the defence of Burma has to be decided, and a perusal of the long list of subjects classed as Central in the Devolution Rules will give some idea of the number of functions hitherto discharged by the Government of India which the Government of Burma will now have to take over, and of the amount of work involved in making the necessary preparations. It is obvious that the factor of time is one of great importance, and apart altogether from the political advantage of this course in the present state of feeling in Burma, it would be convenient to the Government of Burma if the Government of India and His Majesty's Government could see their way at once to announce that they accept in principle the recommendation in favour of separation.

5. The Government of Burma, however, recognize that there may be difficulties in the way of this course, and that the view may be taken that the question of separation, like the other recommendations of the Statutory Commission, must be left open to discussion at the Round Table Conference. If this is the decision, then I am earnestly to request that the Governor General

in Council may be pleased to make two suggestions for the consideration of His Majesty's Government. The first suggestion is that if possible the question of the separation of Burma should be taken up first at the Conference. It is a simple issue—simple at any rate compared with the other questions which the Conference will discuss—and it should not take much time to come to a decision. Moreover, the course suggested, besides being convenient to the Government of Burma, is obviously logical. There are many questions connected with the future constitution of British India and with the relations between the Centre and the Provincial Governments which cannot confidently and permanently be decided unless the problem of Burma is first cleared out of the way. The second suggestion is that if His Majesty's Government on a preliminary examination of the subject before the meeting of the Conference decide provisionally that they are prepared to accept the recommendation in favour of separation, they should at once apply themselves to the questions (1) to what kind of body they propose to entrust the further enquiry into the new constitution of Burma contemplated by the Statutory Commission and (2) what the personnel of this body should be. I am to explain that if His Majesty's Government decide that a Commission or a Committee should be sent out to make this enquiry, the Government of Burma attach the greatest importance to its arriving in Burma not later than the beginning of next January. Otherwise a whole year may be lost, and the time-table for Burma may fall hopelessly behind that of India. If the procedure suggested is adopted, it is hoped that His Majesty's Government may be able to announce their decision on the question of principle early in November next, and that if the principle of separation is accepted, they may be able simultaneously to appoint the Commission of Enquiry.

6. *The Machinery of Enquiry.*—The Government of Burma venture to offer some observations on the two questions mentioned at the end of the last paragraph, since they are questions which have aroused considerable interest in Burma, but they recognise of course that since Parliament cannot divest itself of responsibility for the form of the new constitution of Burma, Parliament must also decide what method of enquiry will be most likely to give it the sort of advice it will require before it can come to confident conclusions on the subject of the new constitution. The choice probably lies between two alternatives. One course would be for Parliament to adopt in the case of Burma the same plan as was adopted in respect of the Indian Constitutional Enquiry. The enquiry would be entrusted to a Parliamentary Commission appointed by Royal Warrant, but the Burma Legislative Council would be invited to appoint a Select Committee chosen from its elected and nominated members to collaborate with the Royal Commission. The other course would be for His Majesty's Government to appoint a Committee in which Burmans (the term being used in its widest

sense) would be included. The latter plan is the plan which seems to be most generally favoured in Burma, and on the 11th August, 1930, the Burma Legislative Council adopted a motion recommending " That this Council urges His Majesty's Government to appoint a Royal Commission consisting of an equal number of members of Parliament and of Burmans to frame a constitution in consultation with the people of Burma." The Government of Burma have no doubt that His Majesty's Government will give due consideration to the view expressed by the Burma Legislative Council. The impulse behind it is the natural feeling that Burmans ought to find a place on a Commission appointed to consider the new constitution of Burma. It must also be observed that the difficulties in the way of adopting the second plan are not nearly so formidable as those which in the case of India led to the rejection of the plan. In Burma the constitutional problem is far simpler than in India, and the problem offered by minority communities is not so complicated. Still this latter problem does exist, and in the judgment of this Government, it constitutes an obstacle to the plan of a mixed Committee. If such a Committee were appointed, minority communities would not be satisfied unless they were represented on it, and it would be necessary to include in the Committee a Karen, an Indian and a non-official European as well as at least four Burmans. The Parliament would no doubt require an equal number of representatives appointed by itself from England, and if this plan were adopted, it would seem impossible that the Committee should consist of less than 14 or 15 members. A Committee of this size appears to the Government of Burma to be much too large and unwieldy. It would be open too to the obvious objection that many of the members of the Committee would already be deeply committed to a particular view, and however open a mind they might desire to keep, would not be able to give really impartial, unprejudiced advice to Parliament. The essential requirements of Parliament, the Government of Burma conceive, are in the first place that all sections of political thought in Burma should be given full opportunity of expressing their views and pressing their demands; secondly, that a Select Committee of the Burma Legislative Council elected by the Council itself should be placed in the position of hearing the evidence tendered and on the basis of that evidence of advising what measure of constitutional advance is thought desirable in Burma and what checks and safeguards, if any, should be imposed; and finally that a body of quite impartial persons responsible to Parliament itself should sift the evidence placed before it, and after giving due consideration to the views expressed by the Select Committee of the Legislative Council should advise Parliament what the new constitution should be. The Government of Burma are driven to the conclusion that this is the most logical and consistent plan, and they believe it to be the only plan which, besides keeping the size of the Commission at a reasonable figure, gives minority communities an adequate share in the enquiry.

So far as Burma is concerned this plan has so far worked well. The Burmans have had evidence of the value of a perfectly unprejudiced and impartial Commission, and the verdict of that Commission in favour of separation has been generally welcomed. The Government of Burma are in favour of carrying on the further enquiries that are necessary in Burma on the same lines, but in order that the Burma case may be presented in as complete a manner as is possible they consider that the Select Committee of the Burma Legislative Council should be invited to England to confer with the Joint Select Committee of Parliament to which no doubt the draft Government of Burma Bill will be committed in due course.

7. *The New Constitution.*—The new constitution will be the subject of the enquiry of the body referred to in the preceding paragraph, and the Government of Burma have not yet formulated their views. They are engaged on that task now, and are preparing a memorandum for presentation to the Commission. There is, however, one point which it is necessary to emphasize at this stage, for the Government of Burma think that reference should be made to it in the terms of reference to the Commission. It is of great importance that it should be made clear beyond all possibility of doubt or question that the separation of Burma will not involve for Burma any departure from the statement contained in the preamble to the Government of India Act, 1919, that the objective of British policy is the progressive realization of responsible government in British India as an integral part of the Empire. As the Commission say, that statement constitutes a pledge given by the British nation to British India. When the pledge was first announced in August, 1917, Burma was a part of British India. The pledge therefore was given to Burma as well as to India, and even if Burma is separated from India, the pledge still stands for Burma unimpaired and in all its force. The Government of Burma could not possibly agree to separation on any other terms, and they trust that His Majesty's Government will see fit to set at rest any doubts that may still exist on the subject by the wording of the terms of reference to the Commission. They attach importance to the point, for the allegation is frequently made in that section of the public press of Burma which is opposed to the recommendation of the Statutory Commission that the British Government will seize the opportunity of separation to reduce Burma to the status of a Crown Colony.

8. It has already been stated that this Government is in agreement with the Commission that due provision should be made in the new constitution of Burma for the protection of legitimate interests of minority communities in Burma, and they also wish to express their acceptance of the first and the fourth of the four major principles laid down by the Commission in Part I of Volume II of their Report. Matters of this kind however can suitably be

treated in the Government's memorandum for the Commission of Enquiry, and at this stage there is only one other consideration which it is thought necessary to stress. The problem of Burma differs from that of British India in that the new Government of Burma will combine in itself the functions both of the Central Government and of the Provincial Governments of British India. It will not be possible therefore to apply to Burma exactly the same constitution as may be devised for British India. It should be remembered, however, at that Burmans will compare jealously the form of government proposed for Burma with that accorded both to the Centre and to the Provinces in British India, and the Government of Burma hope that the Commission of Enquiry will find it possible to propose for Burma a measure of constitutional advance not less liberal than that decided on for British India.

9. *Financial Settlement with the Government of India.*—The financial aspect of separation is naturally one of much importance. Mr. (now Sir Walter) Layton made some remarks on the subject in Part VIII of Volume II of the Commission's report, and though the Government of Burma wish it to be clearly understood that they do not accept the assumptions made by him, they accept his general conclusion that there is no strong financial objection to separation. It is obvious however that separation must raise many complex questions of a financial or semi-financial nature. Some of them may be a subject of controversy between the Government of India and the Government of Burma, as for instance the question what share of British India's unproductive debt should properly be made over to Burma. Other questions may not be so controversial, but it might conceivably be convenient to one of the two countries, while making little difference to the other, that in the first instance at any rate a particular solution out of two or three alternatives should be selected. The future currency system of Burma is a case in point. There are at first sight three possible courses open to Burma. Either she might elect, on terms to be arranged with the Government of India, to retain for some time to come the Government of India's currency, or she might elect for a system analogous to that of Ceylon, or she might elect to cut adrift altogether from the Indian currency system. On the other hand, it might be convenient to the Government of India if for some time longer at any rate the first of these three courses were adopted. The matter is obviously one for discussion and negotiation, and many other questions will similarly require settlement. They relate to such matters as Ways and Means, Savings Banks deposits, Provident Fund deposits, Post Office Cash Certificates, the terms on which the Burma Railways should be made over to the Government of Burma, the taking over by the Government of Burma of lands and buildings belonging to the Government of India and other similar subjects. The important thing at this stage is to settle on a procedure which will be acceptable to both

Governments. The Government of Burma have already had the advantage of informal conversations with the Government of India on the subject, and they have reason to believe that the procedure suggested below will be accepted by the Government of India. A list of the more important subjects of the kind requiring settlement has already been drawn up by the Government of India. It is believed that by correspondence and negotiation between the two Governments it will be possible to reach not indeed agreement on all the points at issue but an agreed statement of the case, and it is proposed that this agreed statement of the case (or if even this measure of agreement cannot be reached, the views of the two Governments) should be laid before a Board of neutral and impartial arbitrators. These arbitrators would be men with expert knowledge of finance whose decision would be accepted as authoritative, and it is proposed that their decision should be final. Representatives of the two Governments would be attached to the Board, not as members but as assessors and advisers. Their function would be to watch and present the case of their respective Governments. It is considered that even though there may be no difference of opinion between the two Governments regarding some of the points at issue, all such points should be referred to the Board for final decision. This appears to be a necessary safeguard for both Governments, for it is advisable that public opinion in both countries should be satisfied that whatever decisions are made are the decisions of an impartial neutral authority.

10. If this procedure is accepted, two further points require consideration. In the first place, the Government of Burma hope that the Board of arbitrators will be able to sit and to submit their report before the end of the next cold weather. Here again the time factor is of great importance. It is essential that both Governments should know as early as possible what the exact financial consequences of separation will be. The Government of Burma attach even greater importance to the next point. As the Government of India are aware, the Finance Department of a Local Government is occupied almost entirely with expenditure questions, and the officers of a Local Government have not as a rule experience and practical knowledge of currency, exchange, and other questions appertaining to the domain of what is usually known as high finance. The Government of Burma at any rate have no officer who can lay claim to experience or knowledge of this kind, and in respect of many of the questions which will come up for negotiation and settlement they have no one who will be able to treat on terms of equality with the experts of the Government of India. They will thus be in a position of great disadvantage. If therefore the Government of India and the Secretary of State for India agree to the procedure suggested in the preceding paragraph of this letter, I am to express the earnest hope of this Government that they may be provided with the assistance of some one who has

the sort of expert knowledge referred to above. If the Government of Burma may venture to make the suggestion, Sir Edward Cook, sometime Secretary to the Government of India in the Finance Department and until recently Financial Adviser to the Government of Siam, has exactly the type of experience required, and the Government of Burma would be very glad if arrangements could be made to secure for them the benefit of his services. The selection of the adviser however must necessarily be left to His Majesty's Secretary of State for India, and the main point I am desired to make is the absolute necessity for an adviser of this kind to assist in the preparation of the case for Burma, and in presenting and arguing that case before the arbitrators. The Government of Burma would agree to any terms the Secretary of State may find necessary to secure the type of man required. If it is agreed that the proposed Board of arbitrators should finish their work before the end of the ensuing cold weather, it is obviously desirable that the financial adviser asked for should be sent out to Burma with the least possible delay, and I am to ask that the Government of India will treat this recommendation as one of particular urgency, and that they will address the Secretary of State on it by telegram before coming to a decision on the other questions raised in this letter. I am to suggest that in view of the urgency of the matter, the action proposed might reasonably be taken by His Majesty's Government without waiting for or prejudice to the final decision on the principle of separation.

11. *The Defence of Burma.*— I am next to deal with the question of defence. It is of course a cardinal question in itself, and it has in addition grave constitutional and financial implications. The military aspect will no doubt be studied closely by the General Staffs in India and at home, and the Government of Burma naturally speak on this side of the problem with great reserve. They propose however to make some remarks on the broader aspects of the matter.

12. In considering the constitutional problem of British India, the Commission were greatly impressed by the formidable nature of the obstacle to the ultimate attainment of the purpose avowed in the declaration of the 20th August, 1917, offered by the functions and composition of the army in India. Those functions comprise in the first place frontier defence. The land frontier of India exposes her in the North-West to a constant and pressing danger of a magnitude which is quite without parallel in any other part of the Empire, and the Commission came to the conclusion that for a very long time to come it would be impossible for the army entrusted with the defence of this frontier to dispense with a considerable proportion (*a*) of British troops of all arms, (*b*) of British officers in Indian regiments and (*c*) of British personnel in the higher command. The other main function of the army in India is the maintenance of internal order, and in view of the

bitter communal feuds and sectional commotions which have so frequently disturbed the peace of India in recent years, here again the Commission decided that there was great need for the continued presence in India of British troops. Their supreme value in communal disturbances lies in the fact that their neutrality is universally recognized, and that for that reason in particular they inspire general confidence. As regards the composition of the Indian army, the Commission were impressed by " the astonishing admixture " in India " of races of widely different military capacity," and by the fact that the rank and file of the Indian army is drawn almost entirely from certain martial races. One inference drawn is that the problem of providing the Indian army with a non-British command is one of quite peculiar difficulty. Another is that " the formation of an Indian national army drawn from India as a whole in which every member will recognize the rest as his comrades, in which Indian officers will lead men who may be of different race and in which public opinion will have general confidence " is also a task of the greatest possible complexity. Consequently the Commission found themselves in a dilemma. On the one hand, the declaration of the 20th August, 1917, stands in its full implication, and that declaration contemplates the ultimate building up of an entirely Indian army controlled by Ministers responsible to an elected legislature. On the other hand, the Commission are clear equally that for a long time to come there must be a British element in the Indian army, and that as long as that element exists, the army must remain under the control of Parliament, and cannot be placed under Ministers responsible to an elected Indian legislature. Their final conclusion was that the obstacle which the composition and functions of the army in India present to the more rapid development of responsible Government might be removed if the defence of India were treated as a matter which should fall within the responsibilities of the Governor-General advised by the Commander-in-Chief as representing the Imperial authority instead of being part of the responsibilities of the Government of India in relation to the Central legislature. The substance of the plan is that the defence of India should be recognized not as a purely Indian problem but as a matter of supreme concern to the whole Empire, and the Commission made it plain that a solution based on this principle could probably be brought about only by a definite agreement between India and Great Britain acting on behalf of the Empire.

13. The report leaves the Government of Burma in some doubt whether the Commission intended to suggest that Burma should adhere to this scheme. It is clear from the Appendix to his Financial Report that Sir Walter Layton contemplated that the Army in India would continue to defend Burma in return for a fixed contribution from Burma, and his Financial Report proceeds on the assumption that this contribution would be fixed at 3 crores a

year. The Financial Report is incorporated in the Commission's own report, and the Commission nowhere challenge or disavow Sir Walter Layton's assumption. But in dealing themselves with the military consequences of separation in paragraphs 220 and 221 of Volume II of their report, they are very guarded in their language. They suggest, it is true, that after separation Burma may find it advisable to continue to place reliance upon the existence of the army in India, and that if so, Burma must contribute to the cost of that army. They suggest also that the " military predominance of India may fitly contribute to the more efficient organisation of the defence of both countries without imposing upon Burma dependence on India in non-military spheres." But they then proceed expressly to disclaim any intention of laying down the lines on which the defence of India and Burma should be co-ordinated, and they conclude by envisaging a scheme under which the troops required in a separated Burma for watch and ward on the frontier and for internal security would be under the control of the Governor, while in the event of a serious emergency on the frontier, Burma like other parts of the Empire would fall back on the Imperial authorities. They add that it would be open to the latter by agreement with the authorities in India to arrange a concerted scheme of defence.

14. If the intention was that Burma should be included in the scheme described in paragraph 12 above and should be required to contribute towards the cost of the army in India, the Government of Burma must make it quite clear that they cannot agree that the proposal should be accepted. They do not believe that this proposal commended itself to the Commission, and for that reason they do not think it necessary to set out the grounds of their objection in any great detail. It is a condition precedent of the scheme that it could not be introduced in India except by agreement with India. Similarly, it could not be applied to Burma except by agreement with Burma, and this Government see no prospect of that agreement being secured. It is impossible to suppose that the people of Burma would acquiesce in a system whereby the vital question of her defence not only against external aggression but also against internal disorder would be made over to an army controlled by the Governor-General assisted by the Commander-in-Chief of an entirely separate country. This statement receives strong support from the trend of the speeches in a recent debate in the Burma Legislative Council. The debate took place on a resolution that steps should be taken to organise a Burman Army and the resolution was unanimously passed by the non-official members present in the Council. In the next place, the application of the scheme to Burma would involve constitutional anomalies and would be inconsistent with sound constitutional theory. The troops could not be called out in aid of the civil power except by the Governor of Burma himself. To whom would he be

responsible in the exercise of that power? He could not be made responsible to the Governor-General of India, for the Governor-General of India would then be involved in responsibility for the internal security of Burma. If on the other hand he were responsible directly to Parliament, the position would be almost equally difficult, for in that event troops under the control of the Governor-General of India would be used for purposes for which that authority would have no responsibility, and of which he would have no knowledge. The position would become even more difficult if the Governor of Burma found it necessary to apply for reinforcements from India. The Government of Burma are also satisfied that the scheme would be unworkable in practice and would give rise to friction and discontent. Already there have been instances of friction. The recent disbandment of the Burma Sappers and Miners caused great resentment in Burma, and there is also a feeling in Burma that especially in the matter of strategic roads, the North-East frontier is neglected. The Government of Burma do not mention these matters in any spirit of complaint. They recognize that the disbandment of the Burma Sappers and Miners was justified from the strict military point of view, and that as long as Burma and India are treated together for purposes of defence, available funds must be spent on the really vulnerable frontier. Their point is that if friction has occurred in the past, it must occur much more frequently under this system in the future. It must be expected that after separation Burma will develop her own national consciousness and sentiment, and that her outlook will tend to diverge more and more from that of India. The Government of Burma have no doubt that the only satisfactory scheme is a scheme based on the principle that if Burma is to be separated from India at all, the separation should be complete and should extend to the military as well as to the political sphere. Such a scheme would not prevent co-operation and concerted effort between the two countries in the event of a serious emergency. The principle is so clear that only the most overmastering considerations would justify any derogation from it. The whole trend of the Commission's report is to the effect that in Burma such overmastering considerations do not exist, and the Government of Burma earnestly trust that the principle will be accepted. It seems indeed to be the principle underlying the plan sketched in outline at the end of paragraph 221 of the report.

15. If this principle is accepted, Parliament must remain for some time to come responsible for the defence of Burma, and it will be the duty of the body entrusted with the enquiry into the new constitution to consider through what agency in Burma Parliament should exercise its responsibility. The whole question is one which raises important constitutional implications. At this stage all that the Government of Burma think it necessary to say is that they agree with the Commission that for all practical purposes it

will be sufficient if what may be called the Burma Defence Force is organized primarily (*a*) for policing the frontier and repelling local raids and (*b*) for internal security. If serious danger occurs, Burma will rely like all other parts of the Empire on the Imperial authorities. It is probably unnecessary to elaborate these points, but I am to refer briefly to the question of frontier defence. The Northern frontier where Burma abuts on Thibet may be shortly dismissed. The frontier itself runs along a line of lofty peaks, and between the frontier and the most northern outpost of Burma, Fort Hertz, there is an immense tract of what is probably the most difficult country in the world. No invasion has ever threatened Burma from this direction in the past, and none is likely to occur in the future. It is defended at present by the merest handful of Burma Military Police. The Eastern frontier is also difficult, so difficult indeed that the Commission themselves say that "it seems scarcely possible for any large body of men to cross it," and they admit that the danger of invasion is very remote. It is impossible to conceive that anything is to be feared from so friendly a neighbour as Siam, and it is relevant to mention that the last big invasion from China took place 160 years ago. Since British rule was established in Upper Burma, there have been raids from China into Burma, needless to say without the knowledge or approval of the Government of China, and raids of this kind may again take place. But they have been invariably small raids, and the frontier battalions of Burma Military Police have been quite competent to deal with them. On the China side of the frontier there is no railhead nearer than Yunnanfu, and between Yunnanfu and the frontier there are no roads fit for motor transport. The country on the Burma side of the frontier is almost equally difficult for the movement of large bodies of troops, and the Government of Burma are confident that expert military opinion will be to the effect that under present conditions an invasion of Burma by a large modern army is quite impossible. There are the usual frontier disputes between Burma and China. Most of them are of a petty nature, and none of them are such that given goodwill on both sides they cannot be settled amicably. There is no reason to suppose therefore that there is any likelihood of a serious armed collision on this frontier. If unfortunately such a calamity did occur, Burma as already mentioned would naturally look to His Majesty's Government for protection. The contingency, however, is very remote, and moreover it could not occur suddenly. For the reasons already given, long preparations would be necessary before a modern army of any size could invade Burma, and while those preparations were being made, His Majesty's Government would have ample time to reinforce the garrison of Burma and to organise on an adequate scale counter-preparations in Burma.

16. If the broad conclusion is accepted that separation should also extend to the military sphere, a number of important and

difficult questions are opened up all of which must be decided in the near future. The Burma Defence Force must be adequate for the functions which it is designed to fulfil, and it will be necessary to determine what the strength of the force should be. The composition of the force will also require consideration. The ultimate objective is that Burma should be defended by troops controlled by a responsible Burman Minister, and this objective cannot be reached so long as British troops are employed. But the Government of Burma are clear that British troops cannot yet be dispensed with, and that British troops must continue to be employed in Burma for some time longer. At present however there are only two British Battalions serving in Burma, and the Indian Army furnishes the rest of the garrison. The Battalions of Burma Rifles provide the nucleus of a purely Burman Defence Force, and Burman sentiment will undoubtedly be in favour of replacing gradually Indian Regiments in Burma by Burman units. This question will require examination, but in any case the process must take time, and the further question arises what provision should be made for the intervening period. At least one battalion of the Indian Army is now made available for service in the Malay States. Will it be possible for the Government of Burma to make similar arrangements with the Government of India and to retain for some time longer the services of regiments of the Indian Army. It is probable that an arrangement of this kind might prove convenient to India as well as to Burma, and without committing themselves to it, the Government of Burma are satisfied that the suggestion is worth consideration. It will also be necessary to review the relation of the Burma Military Police to the proposed Defence Force. One of the objects of the force is the defence of the frontier against raids. That function is at present discharged by the frontier battalions of the Burma Military Police, which is a force controlled by the Government of Burma. It is an inexpensive arrangement, and the Government of Burma believe it to be an efficient one, and it will no doubt be continued. But if it is continued, the issue is at once raised whether the Burma Military Police or alternatively the frontier battalions of the Burma Military Police should not become an integral part of the Burma Defence Force. The Burma Military Police moreover is mainly recruited from India, and it is necessary that the Government of Burma should know at an early date whether the Government of India will allow recruitment of this kind to continue. One of the difficulties inherent is a comparatively small isolated Defence Force is the problem of officers. Prospects of promotion are necessarily restricted, and there is also the danger of stagnation. There are however similar small isolated forces in other parts of the Empire. This it may be remarked parenthetically is one reason why the Government of Burma cannot see any insuperable objection to Burma taking over her own

defence. The King's African Rifles, the Royal West African Frontier Force, and the Soudan Defence Force are all cases in point. In these forces the problem has been solved by a system of seconding officers from the British Army for periods of five years at a time, and it is possible that the problem might similarly be solved in Burma by an arrangement by which for some time to come the Government of India would agree to second British officers of the Indian Army for service with the Burma Defence Force. This system is already in force with admirable results in the Burma Military Police.

17. This list of questions does not pretend to be exhaustive. The main point which it is desired to make at this stage is that for the solution of problems of this kind the Government of Burma will require expert military advice, and they confidently believe that the General Staff will help them in this matter. The concrete suggestion they desire to make is that if the Government of India are prepared to agree that in the matter of defence Burma should be independent of India, the Government of Burma may be permitted to seek the counsel and assistance of the General Officer Commanding, Burma Independent District. Their present idea is that probably their best plan would be to appoint a small committee to consider and report how best a Burma Defence Force can be organized and what the strength and composition of that force should be. If the General Officer Commanding, Burma Independent District, is willing to preside over that committee, the Government of Burma will be grateful if he may be permitted to do so. He will be consulted both as to the personnel of the committee and as to the terms of reference to it. Among the members it will probably be necessary to include the Deputy Inspector General of Military Police, and another Civil Officer representing the Local Government. The committee will be an informal one, and might be allowed to proceed without prejudice to the decision of the main question. When the preliminary scheme has been prepared, the General Staff will no doubt be willing to advise on it, and the Government of Burma have no doubt that the scheme itself will depend in the first instance on the assistance and co-operation of the Government of India. They are confident that that assistance and co-operation will not be denied.

18. That is the note on which they wish to end this letter. They have been compelled to support the recommendation that Burma should be separated from India, but they hope that the Government of India will accept their assurance that they have not been actuated by any spirit of animosity towards India or any feeling of dissatisfaction or discontent with the Government of India. On the contrary, their relations with the Supreme Government have invariably been of the most cordial nature, and they take this opportunity of expressing their gratitude for the consideration which has always been shown to them and for the support which they have always

received. They have been driven to support the recommendation in favour of separation by the logic of events. They believe that the political connection between the two countries, while it has been advantageous to both countries in the past, is no longer consistent with modern political developments, and they are fortified in this conclusion by the unanimous verdict of an impartial Commission. Nevertheless, for many reasons they view the prospect of separation with regret, and it is their earnest hope that if separation is the final solution, it will be carried through in a spirit of friendliness and goodwill, and that it will leave behind it no aftermath of bitterness between the people of India and the people of Burma. It is in this spirit that the Government of Burma will approach the negotiations which will be necessary if the principle of separation is conceded. This letter has shown that there are many directions in which the Government of India can assist Burma even after separation, and it is believed that many problems will emerge in the course of discussion in which without sacrifice of principle or material interests, one country can ease the process of separation for the other by a considerate and conciliatory attitude. Separation will loosen the political ties between India and Burma, but there is no reason why it should affect the ties of friendship which should subsist between two countries which have been associated under one Government so long and between whom there is so close a trade connection. The Government of Burma trust that friendly relations will be maintained, and they are greatly attracted by the suggestion that a Trade Convention should be made between India and Burma. They propose to apply themselves to the subject, and they hope that they may be able in due course to submit proposals for the consideration of the Government of India.

19. The views expressed in this letter are those of the Governor in Council acting with his Ministers.

BIHAR AND ORISSA GOVERNMENT.

From the Officiating Chief Secretary to the Government of Bihar and Orissa, No. 4368-A.R., dated the 23rd August, 1930.

I am directed to refer to Mr. Lewis' letter No. F. 67/30-R., dated the 24th June, 1930, asking for the views of the Government of Bihar and Orissa on the recommendations of the Indian Statutory Commission, and in particular on those specified in paragraph 3 of the letter.

2. I am now to submit the opinion of the Government of Bihar and Orissa on the matters raised in the following parts of the Report :—

Part I, Chapters 2 and 5,
Part II,
Part III, Chapter 2,
Part IV, Chapters 1 and 4,
Part VIII,
Part IX,
Part X,

and also the report on the reception given to the recommendations in the province.

I am to add that on those points to which no specific reference is made in the opinion sent herewith, it may be taken that the local Government, in order to keep their reply within suitable limits, have intentionally refrained from comment, in some cases because it seemed unnecessary to record a mere general agreement and in others because Bihar and Orissa are not directly interested to an important extent.

Opinion of the Government of Bihar and Orissa on the Recommendations of the Indian Statutory Commission.

Part I.

Chapter 2.

The Mechanism of Advance.

1. The local Government fully agree with the arguments against a temporary constitution to be revised according to a time-table, and endorse the recommendation of the Commission that the constitution should be elastic so as to enable adjustment to be made to suit the special conditions actually prevailing in any province at a particular time.

Chapter 5.

The Need for Safeguards.

2. The Governor in Council and the Honourable Ministers recognise fully the need for safeguards to prevent a break down of the administrative system and to secure protection for the interests of minorities. They agree that the Governor General and the Governor must be armed with full powers and be in a position to operate unhampered in the event of a break down. They also agree that the Governor General and the Governor are the most suitable authority for the protection of the weaker or less numerous elements in the population.

PART II.

Chapter I.

The Governors' Provinces.

Paragraph 38.—*Need for Provincial Redistribution.*

3. The Commission, recognising the force of the opinions expressed in favour of a readjustment of provincial boundaries, recommend the appointment of a Boundary Commission. They, however, have paid special attention to the union which now exists between Bihar and Orissa, which they regard as a glaring example of the artificial connection of areas not naturally related; and the Sub-Committee appointed by them to examine this question were in favour of the creation of an Orissa province, consisting of the Orissa Division of Bihar and Orissa, small portions of Bengal and the Central Provinces, and a large portion of the district of Ganjam in Madras. They recommend that the problem of the union of the Oriya-speaking areas as a separate unit should be the first to be considered by the proposed Commission.

The amalgamation of the Oriya-speaking tracts stands on a very different footing from minor readjustments of provincial boundaries. It has been recognised that the grievance of the Oriyas is well-founded and the demand has the substantial support of the people. The case of Orissa thus satisfies what is regarded by the Commission as one of the most important tests to be applied to the consideration of these problems, that there should be the largest possible measure of agreement on the change proposed. The Commission proposal involves the removal from the existing province of Bihar of nearly one-fifth of the total area, and of a population of nearly five millions out of a total population of 34 millions. The future constitution of both areas is thus greatly affected by the proposals, in particular in regard to such matters as the strength of the Council, communal representation and finance.

If a Boundary Commission is appointed to deal with adjustments all over India, it will take many years to complete its labours. The problem of Orissa is, however, urgent; delay over its solution will cause resentment among the Oriyas, whose hopes have been raised by the recommendation of the Commission, and will adversely affect the interests of Bihar which cannot have a settled constitution or a definite financial settlement till this problem is decided. The local Government, therefore, strongly support the recommendation of the Commission that it should be taken up at once, and press for the appointment of a Boundary Commission to examine the question during the forthcoming cold weather, so that, if possible, a decision may be arrived at as to the future constitution of both areas and necessary provision embodied in the revised Government of India Act. Even if this suggestion is accepted and a decision is arrived at on the financial problem, which has hitherto been the stumbling block in the way of any proposals put forward, some time must inevitably elapse before the new province can actually come into existence; new buildings for the headquarters of the province will have to be constructed, and numerous minor problems of administration will have to be decided. Though the date on which the new constitution will come into effect in other provinces is uncertain, it may be assumed that arrangements for the inauguration of Orissa as a separate province cannot be complete before that date. As will appear from the views of the local Government on the backward tracts, the Boundary Commission should also consider the situation in Chota Nagpur and the Santal Parganas. The Government of India Act should, therefore, make provision for a temporary constitution of the province as it exists at present as well as for the future constitution of Orissa and the backward tracts.

Paragraph 44.—The Principle of Flexibility.

4. The Commission attach great importance to a flexible constitution and consider that the right method lies in the construction of a constitutional frame work, capable of adjustment to the peculiar needs of each province and rendering possible the constitutional progress of provincial government by gradual growth not by artificial jumps. With this view the local Government entirely agree; there are many points of detail on which a different decision may have to be taken for each province, and such points can best be settled in the light of experience. In this province the suggested separation of Orissa, to which reference has already been made, may necessitate a recasting of many of the details of the constitution but, if the framework is provided by the Government of India Act, it should be possible to settle these details without any further parliamentary enactments.

Paragraphs 45 and 46.—Difficulties of Dyarchy. Unitary Governments to be established.

5. Though the system of dyarchy has been worked with some measure of success in the province of Bihar and Orissa and has afforded a training in the task of Government, the local Government concur in the objections to the present system and recognise that the growth of responsibility will be hindered by its continuance in any form. They therefore approve the recommendations of the Commission that there should be no division of subjects but that there should be unitary cabinets, with joint responsibility for the whole field of provincial government. In submitting their provisional views to the Commission, they advocated that an exception should be made in regard to law and order, and discussed various alternative solutions of this problem. To this view they no longer adhere, and they recognise the force of the arguments put forward by the Commission in favour of treating law and order on the same basis as other subjects, and in particular the argument that responsible government cannot be achieved without this change. They are not blind to the risks which may occur or the difficulties which may be experienced, especially if the new system comes into effect after a period of civil commotions and disturbances, such as are occurring at present; and there must be no whittling away of the safeguards provided in the constitution. The transfer of this subject will, also, add greatly to the burden of the Governor who, in the discharge of his duty of preserving the safety and tranquillity of the province, will have to be in the closest touch with the administration of this subject. His position in fact will be more difficult than that envisaged by the local Government when, in submitting their provisional opinion to the Commission, they suggested that a possible solution of the problem would be for the Governor to take himself the portfolio of law and order, and, accordingly, the Governor and his civilian colleague (the other members of Government dissenting) press emphatically the point taken in the former memorandum that it will be necessary to provide the Governor with the assistance of a senior officer of the service with a status similar to that of the present Member of Council—a proposal which will be developed in dealing with paragraph 54 of the Report.

6. To give the proposed system every chance of success, it is essential that there should not be frequent changes of Ministers and of the Cabinet, but the local Government anticipate that at least in the early years a newly-formed Cabinet may be very unstable owing to the fact that there is at present no well defined party system, and that the Council may for some time to come be divided into groups rather than parties. The principle of joint responsibility also is new to Indian politics and not yet fully appreciated

by the members of the legislature. Protection, such as that suggested by the Commission, will be needed to improve the chances of stability. The first safeguard proposed by the Commission, that ministerial salaries should be fixed by a provincial statute, is a suitable measure to further this object; but the second safeguard, that the only vote of censure which could be proposed would be one against the Ministry as a whole, carried after due notice, hardly goes far enough; the local Government would prefer that further protection should be given by providing in the Government of India Act that a vote of censure against the Ministry must be passed by a two-thirds majority of the members present in the Council Chamber. It would still, however, be possible to carry by a bare majority a vote which might necessitate resignation, e.g., the refusal of a major budget demand or the rejection of an important measure of legislation.

7. As regards the composition of the Cabinet, the local Government consider that at least in this province there will be no need for Ministers without portfolios, and also that it will be undesirable to create an inner circle of administration by leaving some Ministers outside the Cabinet. The Ministry would be too small for any such distinction, which might also have the undesirable effect of blurring joint responsibility. To the suggestion that there should be Under-Secretaries in the British sense, there is no objection; the Government of India Act [section 72 (4)] already provides for the appointment of Council Secretaries, and this provision should be retained. Such appointments will form a useful training ground and might, though this appears more doubtful, have the effect in some cases of contributing to an easing of communal strain. It would certainly tend to increase the stability of the Cabinet where the group rather than the party system obtains.

Paragraph 48.—*Composition of the Ministry.*

8. The Commission propose that the Governor should have power to include in the Ministry one or more persons who are not elected members of the legislature, and contemplate that ordinarily such persons should be experienced officials, though on occasions non-officials might also be included. The local Government agree that non-officials should be eligible for appointment to the Cabinet. It may well happen that the appointment of an experienced non-official not in the Council, but enjoying the confidence of the people and commanding the support of many of the elected members, will strengthen the Cabinet.

9. The proposal for the appointment of an official minister has been the subject of much criticism from Indian politicians; they anticipate that as a general rule the official Minister will be given charge of the portfolio of law and order, and they regard the suggested transfer of law and order, when read in the light of this

further proposal, as mere camouflage. Such an appointment would from the first be viewed with disfavour and distrust both inside and outside the Council, and it would clearly be impracticable to force any such appointment upon an unwilling Cabinet, while even if the appointment were made at the request of the Ministers, the position of the official Minister, and consequently of the whole Cabinet would be by no means secure, unless it had a safe majority in the Council, and in the early years the prospect of a Cabinet with such a majority is remote. The result would be that the departments of which the official was placed in charge would be singled out for attack, with the probable result that a vote of censure would be passed against the Ministry. It would be impossible for the Governor to force the official upon a subsequent Ministry, and he might, therefore, be faced with premature retirement through no fault of his own. It is hardly likely, therefore, that officers, except possibly officers on the verge of retirement, would willingly accept such an insecure position, even if they received some slight compensation in the form of an enhanced pension. The principle of joint responsibility would also make the position of such an officer difficult; even if he received the support of his colleagues in the administration of the portfolio of which he was in charge, he might have scruples about agreeing to proposals of other departments and accepting a different standard from that to which he had been accustomed. Holding this view, the local Government consider that such an appointment will be the exception rather than the rule, and that this device for making official experience available for the Ministry and the Governor will not ordinarily be effective. They would, however, keep the Governor's power to appoint an official to meet any exceptional circumstances that might arise; it might, for instance, be desirable to make such an appointment temporarily to avoid an interregnum.

Paragraphs 49 and 50.—Overriding powers of the Governor.

10. With the complete transfer of all subjects to an unitary Government in the manner proposed, it is impossible under present conditions for the Governor to be merely a constitutional Governor. The need for safeguards, chiefly to prevent internal disorder and to protect minorities, has already been accepted; and the duty of seeing that they are effectively applied must rest, subject to the control of the Governor General, with the Governor. The limited power of interference which it is proposed to give should not tend to hamper the growth of a sense of responsibility and the constitutional development of the province; rather it will facilitate such development by preventing any serious breakdown which might cause a severe set back to progress. The powers which the Commission propose should be given to the Governor are both necessary and suitable; these powers should be clearly defined, and it should also be made clear in the Act that any action taken by him

in the exercise of them should not be liable to any challenge. The method of empowering him to secure the fulfilment of any liability in respect of non-voted expenditure in particular requires careful consideration.

Paragraph 51.—Procedure at meetings of the Ministry.

11. The local Government agree that there should be no statutory rule defining the part which the Governor should play in the day to day work of the Ministry; he should not be required either by rule or convention to attend all or even the majority of Cabinet meetings, but he should have the right to attend, whenever he thinks fit, and should preside on such occasions. His influence will be exercised chiefly through individual Ministers, who may be expected freely to consult him in all matters. If he associates himself too closely with the ordinary work of the Cabinet, his influence with the Cabinet in important matters will be lessened and the value of his advice will depreciate, while, outside the Cabinet, his position may be misrepresented and he may be regarded by hostile critics as attempting to force his views upon an unwilling Cabinet. There should in fact be no possibility of the suggestion that he is usurping the position of a Prime Minister.

When the Governor does not attend the meetings of the Cabinet, he should be kept fully informed of the proceedings, and it should be the duty of the presiding Minister, whether he be the Chief Minister or the Minister dealing with the subject under discussion, to see that a record is kept of the proceedings and communicated to the Governor. A Cabinet Secretariat, such as has recently been created in England, appears to the local Government to be unsuitable to provincial conditions, and in the early years at least the duty of recording and communicating the decisions of the Cabinet at their meetings, which would not be onerous, might devolve on the Secretary of the department concerned with the subject under discussion.

Paragraph 54.—The Governor's Role under the New system.

12. The Governor's role under the proposed system, as described in paragraph 54 of the Report, will not be a light one. Not only has he certain definite duties imposed upon him by Statute but "upon him more than upon anyone else will fall the duty of counsel and guidance which may bring the advance towards provincial self-government to a happy issue." He will have to keep in touch with the Cabinet, with the Council and with public opinion outside the Council. He will have to make important decisions in the event of a crisis in the Cabinet or the Council. He is given a special responsibility in regard to "backward tracts" and service questions. His position will in fact be no less arduous and no less responsible than it is under the present system, when he has the

assistance of at least one senior official as a Member of his Executive Council. In the opinion of the Governor and his civilian colleague, as already stated, the Governor must be given the assistance of an experienced administrator.

Such assistance the Commission proposed to give through the appointment of an official Minister, but for reasons already stated the local Government hold that such an appointment can seldom be made with any chance of success. It will therefore be necessary to devise some other method of providing the Governor with a trained adviser. In addition to assisting the Governor with official advice, such an officer would also in practice be in a position to relieve him in another way. Though the Governor will have the powers specified in paragraph 50, the Commission no doubt contemplate that he will be in a position to influence the Cabinet and the individual Ministers, so as to make intervention rarely necessary. But the duty of " counsel and guidance " will be no light task for a single individual. Ministers entirely without experience of administration may in many cases be anxious to obtain advice on minor as well as upon major problems which come before them. In dealing with these problems they will receive the assistance of the permanent staff of the departments of which they are in control, but on many questions may welcome further assistance from a trained administrator. If each such case were referred to the Governor personally, he would be overburdened with work, and Ministers might hesitate to consult him except on matters of major importance.

13. The services of such an officer could also be utilised in keeping the Governor in touch with the administration. If the Governor is effectively to perform his statutory duties, he must be kept fully informed of the work of the various departments. It will not be sufficient for him merely to know the decisions of the Cabinet on the major questions discussed at its meetings, but he should also be in touch with the general working of each department, for it is possible that the cumulative effect of a series of acts, each taken individually of minor importance, would ultimately require the exercise of his special powers; to take an extreme but none the less a possible example, a series of decisions, due possibly to ignorance or inexperience, might reduce the police force to such a pitch of inefficiency or lack of discipline as to endanger the tranquillity of the province; or acts might be done, again from ignorance or inexperience, that would affect the administration of a Central subject or the interests of other parts of India; unless closely in touch with the details of the administration the Governor might not be in a position to intervene, until serious difficulties had arisen.

14. Further, the responsibility of the Governor in whose charge they are placed will be increased by the administration of the Backward Tracts and the care of the Feudatory States of Orissa, while service questions may also in the beginning very frequently

demand his personal attention. In all these matters the assistance of a trained administrator will be invaluable.

15. Finally, if conditions were such as to necessitate the declaration of a state of emergency (paragraph 65) in which the Governor took over the whole administration, the need of such an officer would be essential.

16. The civilian members of the local Government, therefore, consider an appointment of this nature to be essential by whatever name it may be called, not with a view to increase the Governor's power of interference, but merely to ensure that he is in a position to carry out his duties.

Paragraph 65.—Special provisions for a state of emergency.

17. Though the proposed constitution gives the Governor powers to override the decisions of his Ministry in certain important matters, including not merely the negative power to prevent action but positive power to direct action, yet circumstances might arise in which these powers would be inadequate. The local Government agree with the proposals for a state of emergency detailed in paragraph 65 of the Report, which appear to them to be adequate for the purpose.

Chapter 2.—The Provincial Legislature.

Paragraph 67.—Maximum life of Provincial Councils.

18. With the suggestion that the maximum life of provincial councils should be extended to five years, the local Government are in full agreement. If the maximum life of a Council is only three years there is considerable risk of hasty and ill-advised legislation.

Paragraph 68.—Size of Provincial Councils.

19. The Commission recommend a large increase in the size of provincial Councils, and consider that an immediate increase to 200 or 250 in the case of the more important provinces is desirable. In view of the large area of the existing provinces they suggest that an even larger increase will ultimately be required. An immediate increase to 200 or 250 will more than double the present number of elected members in the Council of Bihar and Orissa (76), and the local Government are of opinion that so large an increase is neither necessary nor desirable. Though the constituencies are large the interests of the electors are similar and can be sufficiently represented if the Council consists of 150, or about double the existing number of elected members. If the Council is enlarged to 200, the local Government anticipate a serious difficulty in securing a sufficient number of suitable members, especially if there is, as recommended later, a Second Chamber, and if also an increase is made

in the number of provincial representatives in the Assembly. Candidates at present standing for election are in many cases men of little ability and education, and an increase in numbers would mean an even lower standard. Further, a large increase will not only lead to a large increase of expenditure, which the province can ill afford, but will also cause serious difficulties in the transaction of public business. In the present council private members have shown a marked tendency to ask questions and move resolutions on petty matters of purely local interest; till members of the enlarged councils are better educated in parliamentary procedure, this tendency will undoubtedly continue, and effective work may become impossible owing to prolonged debates. The local Government accordingly consider that, for the province of Bihar and Orissa as at present constituted, the Council should not exceed 150 members.

Paragraphs 69 to 77.—Communal Representation.

20. With the unanimous view of the Commission that under present conditions communal representation must be continued, the local Government are in complete agreement. The alternatives to separate Muhammadan electorates, such as reserved seats, proportional representation, etc., are unacceptable; the electors have become accustomed to the present system and no change should be made until an agreed solution has been discovered by the two communities themselves.

Paragraphs 78 to 80.—Representation of Depressed Classes.

21. To secure adequate and suitable representation of the depressed classes the Commission have recommended an increase in the number of seats reserved for them, and a complicated system of election from among candidates certified by the Governor as representing such classes. Both these proposals have, in the opinion of the local Government, little to commend them.

Before applying the formula suggested by the Commission for fixing the number of reserved seats, it would be necessary to obtain a satisfactory definition of the term "depressed classes", a problem which, as the Commission themselves recognise, would be far more difficult in Bihar and Orissa than in Madras, Bombay or the Central Provinces. Even if this problem were solved by the proposed Franchise Committee, the formula, that the proportion of reserved seats for such classes to the total number of seats in all the Indian general constituencies should be three-quarters of the proportion of the depressed class population to the total population of the electoral area of the province, would result in giving undue representation to these classes.

Further, if the number of representatives were large, the Governor might experience considerable difficulty in certifying that every candidate really represented the interests of these classes.

The chief difficulty, however, would be over the election itself; constituencies would be unmanageably large; the candidates would not be personally known to the electors, and only those who secured the support of the best organised party would be elected. An election under such conditions would be a fiasco, and would not secure the object for which it was devised.

The local Government, therefore, prefer to adhere to the present system of nomination, the selection being made, as far as practicable, from among the educated members of the Depressed Classes themselves. In making his nominations the Governor can consult the *Sabhas* or Associations of these classes; some such associations at present exist, and it is anticipated that new associations would soon come into existence.

Further, the uplift of the Depressed Classes is not likely to be promoted by means of an increase in their representation in the Council; they will profit more by the exercise by the Governor of his power to protect them from discriminatory legislation and from any action which tends to cause them serious prejudice. At present they are represented in the Council by two nominated members; if, as proposed by the local Government, the number of members is raised to about 150, four seats could be allotted to them and this would secure that their interests were not neglected.

Paragraph 83.—*Anglo-Indian Representation.*

22. To the suggestion of the Commission that Anglo-Indian representation should be secured by election rather than nomination, there is no objection. The community being for the greater part educated, election by post would present no difficulties.

Paragraph 84.—*Indian Christian Representation.*

23. The Indian Christian population in this province is at present represented by a nominated member; it consists largely of aboriginals of the " Backward Tracts " for whom a separate constitution may be necessary. Representation should continue to be as at present by means of nomination, but the possibility of introducing later some system of indirect election might be considered.

Paragraph 85.—*Number of Muhammadan seats.*

24. The number of seats to be allotted to Muhammadans has also to be considered. The view generally of Muhammadans in this province is that they should be an effective minority and that the present proportion of seats should remain undisturbed; they are in fact in agreement with the recommendation of the Commission contained in paragraph 85 in regard to those provinces in which Muhammadans form a small minority. All communities in the province have also become accustomed to this ratio. The local Government, therefore, recommend that in Bihar and Orissa the existing proportion of seats should be maintained.

Paragraph 86.—Official Bloc not to be retained.

25. The local Government are in full agreement that the official bloc should not be retained. They agree also that if officials or experts are needed for purposes of explanation, their proper place is in the Committee room and not in the Council itself, where their presence would weaken the idea of responsibility.

Official members themselves would also welcome relief from sitting in Council, where they would be bound to support the Ministers for the time being in power, and if, as might happen, there were frequent changes of the Government, they would be put in the difficult position of supporting now one policy, now its opposite. Prolonged sessions of the Council would also cause undue interference with their ordinary work.

Paragraph 87.—University Representation.

26. The experience of the past ten years has not been such as to afford any justification for special representation of the Universities. The members returned have been of the same class as those returned by general constituencies and have had no special qualification. The local Government are not, therefore, in favour of retaining this representation.

Paragraph 90.—Special representation for great landholders.

27. The proposal to abolish special representation for the great landholders has been strongly resented by the landholders of this as of other provinces. They anticipate that under the revised constitution, which will involve a very large increase in the number of voters, if the proposals of the Commission are approved, their influence will be reduced and political power will be transferred to the lower and middle classes. This would also happen even if the modification suggested by the local Government is accepted. They also represent that they are the largest stake-holders in the province, that they contribute a very large proportion of its income, and that they have rendered valuable help to Government in the past and have taken a leading part in working both the present and previous constitutions.

Due weight must be given to these representations. The Commission appear to have been influenced unduly by the fact that the great landholders have succeeded in all the provinces taken together in being returned for four times as many seats as were specially reserved for them. It is to be noted, however, that in Bihar and Orissa, where the position and influence of the landholders is as great as or greater than in other parts of India, the landholders have not come off so well; they have only secured election in ten of the general constituencies in addition to the five reserved seats, and even these members, though possessing the qualification needed for the landholders constituency, are not elected in that interest.

Though " prophecy is not easy and knowledge is impossible," there appears full justification for their apprehension that, with a larger number of voters but with constituencies smaller in area, the landlords will have greater difficulty in securing election and will not enjoy as favourable a position as at present.

The authors of the Montagu-Chelmsford Report recognised fully that the landed aristocracy were fitted by position, influence and education to take a leading part in public affairs. This duty they have in many instances successfully discharged both under the present and previous constitutions, not merely the members of old aristocratic families but also those who have more recently obtained a similar stake in the country. There are signs too that members of this class are showing a growing interest in public affairs and are prepared to take a leading part in provincial and local administration. In this they should be encouraged, and it would be a matter of great regret if their numbers and influence in the provincial councils or central legislature were reduced. The local Government attach great importance to the due representation of this class, not *qua* landlords but as stake-holders in the country, who can be trusted to add a sound element of responsibility to the Councils, which may, under the democratic constitution now proposed, consist largely of persons who have little to lose by ill-considered legislation or ill-advised executive action. The presence of such an element in the Council will be the more necessary when the official bloc is removed and the number of nominated members is reduced. During the agitation in the present year and the non-co-operation movement of 1921-22 the landholders have ranged themselves on the side of law and order and have proved themselves one of the few stable elements in the country, and it is essential for the future well-being of the country that this class, which has much to lose, should be closely associated with the administration.

His Excellency in Council and his Ministers consider that the arguments in favour of special representation completely outweigh the single argument put forward for its removal, and urge strongly that reserved constituencies should be kept for the landholders in no smaller proportion than at present. Possibly the franchise for these constituencies might be reduced, but this would be a subject for consideration by the Franchise Committee.

Paragraphs 96 *and* 97.—*Legislative Powers and Governor's powers in relation to Legislation.*

28. The local Government are in favour of the continuance of the present system whereby certain bills require the previous sanction of the Governor-General in Council, for there is considerable risk that in an inexperienced provincial Council, bills may be introduced which encroach upon the Central sphere, and thus time and labour

will be wasted. The local Government also agree that the Governor's power in relation to assent to Bills and to their reservation and return to the Council, as well as the powers of the Governor-General in this respect, should remain as at present. The Governor's power of securing the passage of bills by certification should be limited, as proposed, to the same field as is covered by his over-riding powers to control executive action.

Chapter 3.—*The Franchise.*

29. In advocating a large increase in the franchise, the Commission appear to have been largely influenced by the view that the vote is a potent instrument of political education. Such a view is hardly consistent with the picture of the elector drawn in Part I of the Report. It is there pointed out that though voters have come readily to the polls this may be due to misconception or to the action of village officers who regard it as their duty to bring in voters. Even if election contests do attract the interest of the voter, it is largely a contest of persons and not of policies which is presented to his mind, and he has not yet learnt the lesson of the power of the vote.

Such being the present condition of the voters even after some experience of three elections, there is little reason to hold that we have reached the stage where an enlarged franchise will contribute more rapidly towards the political education of the masses. The new voters will still be illiterate, they will still have few opportunities of becoming acquainted with the work of the provincial council; and members once elected to the Council for a period of five years will have even less inducement than at present to keep in touch with their constituencies. The advance towards adult male suffrage must be slow, and each step forward should justify itself before a further step is taken. For this reason the local Government deprecate the Commission's recommendation for a large immediate increase.

In Bihar and Orissa the present electorate is 374,812; the Commission's proposal would involve an increase to 3,400,000. It is not easy to calculate the change in the franchise necessary to give effect to the Commission's proposal. At present the holder of 15 acres or more of average land is enfranchised, and the estimate prepared for the local Government indicates that to obtain three million voters it would be necessary to include all persons with a holding of only an acre and a-half. An increase to 10 per cent. of the population in urban areas would be less difficult; and this result could be obtained approximately by lowering the franchise, which is at present the payment of a municipal tax of Rs.3, to Rs.1-8-0, which is the main qualification for the municipal franchise.

The local Government consider that any large increase in the number of voters should only be made gradually; and the furthest advance which they consider now suitable is the doubling of the number of voters in the general constituencies. What franchise would be necessary to secure this result would be a subject for examination by the proposed Franchise Committee, but it is thought that it might be possible to obtain a substantial increase in the electorate without lowering appreciably the franchise, e.g., by not restricting the franchise in respect of joint families merely to the head of the family and by admitting persons with certain educational qualifications.

Paragraph 108.—*Proposed qualifications for women voters.*

30. The Commission urge the desirability of a substantial increase in the present ratio of women to men voters, and propose that the wives of men with property qualifications might be enrolled if over 25 years of age, and also widows of that age if their husbands were so qualified at death. If the total electorate were increased, as proposed by the Commission, up to 10 per cent. of the total population, of the 3,400,000 voters, 2,400,000 would be males and 916,000 females, and of the latter less than 10 per cent. would be literate. For this rapid enfranchisement of women there is no justification, and the proposal has been generally condemned and has aroused very strong resentment. The higher castes represent that it will mean duplicating the vote for members of the lower castes whose wives do not observe "purdah," and will thus lead to an increase of voting power only of the less responsible and less educated classes of the community. Women are no doubt beginning to take more part in politics and public affairs, but the number is still small, and in a conservative and orthodox province such as Bihar there is no evidence that there is any demand on the part of the women themselves for a vote. The "purdah" system prevails among the better classes, both Hindu and Muhammadan, and if one of the objects of this proposal is to secure the more rapid abolition of the "purdah" system it is hardly likely to have this result. Should female education make rapid progress, and should there be a genuine demand for the vote by the women themselves, then the question might be considered, but under present conditions the recommendation is premature. The Legislative Council, which, as proposed in paragraph 109, will have power to set in train proposals for extending the franchise, has not in the past shown itself hostile to the gradual enfranchisement of women, and might safely be entrusted with the duty of providing further enfranchisement, when it becomes justified.

Finally, there is a fatal practical objection; a large increase in the number of women voters would inevitably lead to gross corruption in the matter of personation, as their identification at the poll would be practically impossible.

The local Government consider that this proposal must be rejected; female suffrage should be on the same basis only as that for men.

Chapter 4.—The question of Second Chambers in the provinces.

31. It is generally agreed that, if second chambers are to be established in the provinces, they must be included in the constitution at its inauguration, for it is hardly likely that a provincial council which will have a large voice in future developments of the constitution will ever reduce its own power by creating such a body.

The arguments for and against the institution of a Second Chamber are, as the report of the Commission shows, so evenly balanced that the question is one of the greatest difficulty. The local Government are on the whole of opinion that the arguments for the proposal outweigh those against, particularly if the Chamber is constituted in the manner suggested below.

The main argument in favour of a Second Chamber is that it would introduce an element of stability and responsibility in the constitution and would tend to prevent the enactment of hasty and ill-considered legislation. For the present, under the proposed constitution, the powers of the Governor would afford some check on an irresponsible legislature, but in time those powers might be modified or become obsolete, in which case the need for a Second Chamber would be insistent. Even at present the Second Chamber might save the Governor from frequent recourse to his over-riding powers and promote the smooth working of the constitution. Such a Chamber should also attract to public affairs persons of influence and experience who are reluctant to seek election to the Council.

Against the proposal it is argued that it would be difficult to find sufficient material to man the two Chambers, though this difficulty would be lessened if the Council is not enlarged to the extent proposed by the Commission and if the Second Chamber itself is small. It is also urged that the existence of the Second Chamber would deprive the Council of a useful element, for many of the stakeholders in the province would prefer to serve there rather than in the Council. Finally, there is the apprehension, noted by the authors of the Montagu-Chelmsford Report as well as by the Commission, that such a Chamber might become too representative of the vested interests of land and money and afford to these interests undue protection from legislative interference.

32. The Commission suggest that the Chamber might consist of some 30 members, half of whom would be nominated by the Governor from officials and non-officials, and half elected either directly by voters of high qualification or indirectly by members of the lower house by means of the single transferable vote. The

local Government agree that the Chamber should consist of 30 members, but, differing from the Commission, they recommend that it should consist of the following members in equal proportions :—

(*a*) members elected directly by voters of a high franchise similar to that in force for the Council of State;

(*b*) members elected by the lower house;

(*c*) nominated non-officials.

Under this constitution there would be little risk of the Chamber becoming unduly representative of vested interests. The local Government are not in favour of the appointment of officials, which would be regarded with suspicion; the position of officials bound to support the Ministers for the time being would be no more easy in this Chamber than in the Council. The argument in favour of the inclusion of officials is that they would provide administrative experience, but this could equally be secured by the appointment of non-officials with such experience and of retired officials.

Part III.

Chapter 2.—The Backward Tracts.

33. On the question of the backward tracts, or excluded areas, there is a sharp division of opinion within the local Government on more than one matter. It is represented on one side that there is no need for exclusion of any area from the provincial administration, that there has not been recently, and is not likely to be in future, any exploitation of aboriginal weakness by the more advanced classes, and that special protection will not hasten but rather impede the aboriginal's progress.

But there is no question that the opinion of the aboriginal races themselves is unanimous in demanding special treatment, and as the Commission, endorsing the views of the Montagu-Chelmsford Report, are definite on the subject that some protection is required while the aboriginal tracts develop the institutions suitable for themselves, it is hardly profitable to discuss this matter further, or to repeat the arguments which were fully expounded in the evidence and in the report of the Commission.

34. The next difference is on the question to which administration the excluded areas in Bihar and Orissa should be attached. Two Members of Government support the view that it will be advantageous in more ways than one that the excluded areas should be attached to Orissa. The Commission have recommended that Orissa should have a separate administration, but the population of an enlarged Orissa will not exceed seven millions in British India, and its revenues will be very limited. Thus the addition of Chota Nagpur Division and of the Santal Parganas would bring it nearer to the standard of a minor province and would help to support the overhead charges. Later, as the backward tracts reach a

stage when they can merge in the normal administration, it will be easier for the advanced aboriginal to hold his own against the Oriya than it would be against the more combative Bihari. An immediate advantage of this amalgamation would be that buildings for the new Government would be available at Ranchi and the opening of the new province would thus be facilitated—Cuttack at present having no buildings which would be suitable for the provincial Government.

On the other hand, Bihar is at present the senior partner in Bihar and Orissa. While the Biharis assent to a divorce from Orissa as recommended by the Commission, they resent the idea of any further dismemberment of the province by the attachment of the aboriginal areas to the Orissa administration. Further, where the population of the excluded tracts has only a minority of aboriginals, the admixture is far more of Biharis, and Oriyas only come into the picture in the districts of Singbhum and Manbhum.

35. The antagonism on this question is so sharp and personal feeling comes in so strongly that it would, in the opinion of the local Government, be better to postpone a decision for the advice of the Boundary Commission, with an impartial Chairman, as proposed in paragraph 38 of the Report. The local Government have already recommended the early appointment of such a Commission to consider the question of the amalgamation of the Oriya speaking tracts, and the same Commission could conveniently consider the further question of these excluded areas.

36. Apart from the question of the association of the excluded tracts with one or another province, there are several matters on which the local Government find a difficulty in accepting the vaguely outlined proposals of the Commission. The Commission recognize that in regard to these areas Parliament have a special responsibility which cannot be fully discharged unless adequate funds are made available to carry on the work of education and development. They suggest that this responsibliity will best be discharged if it is entrusted to the Central Government, by which apparently is meant that funds should be voted by the Central Assembly. With this view the local Government cannot agree. The Federal Assembly will have little knowledge of, and take no interest in, these areas, and there is no reason to hold that it will be more ready to vote funds for their development than the provincial Council, which in the past 10 years has not dealt unfairly with these areas and has given them their share in such funds as have been available for the development of education and spread of medical relief. But the main point emphasised by the Commission is that special funds are necessary to force the growth of the backward tracts to enable them to take their place in the scheme of provincial Governments; and these they cannot be expected to receive from a provincial Council which has no share in the administration of these tracts. If the provision of adequate funds cannot

be left to the province, neither can it be left to the Assembly if the special responsibility is to be discharged; and the local Government see no way out of the impasse except that the sums required to supplement the revenues of these areas should be either non-voted or should be certifiable by the Governor General.

37. The Commission's suggestions for the immediate constitution for this area are as follows :—

(1) the tract should return representatives to the Bihar and Orissa Legislature.

(2) the Governor as the agent of the Governor General in Council should decide how far legislation enacted at Patna should apply to them.

(3) revenues raised in the area should be spent therein and should be supplemented by additional funds from Central revenues.

(4) the administration should rest with the Government of India acting through the Governor, who, as under the present system of dyarchy, would act in consultation with the Ministers of the Bihar province.

These proposals are open to numerous criticisms. The Bihar Council will undoubtedly resent a system whereby the representatives of Chota Nagpur have a free vote on matters concerning Bihar, when its own powers in respect of legislation for this area are curtailed by the powers vested in the Governor.

Nor, again, will the position in regard to the Ministers be satisfactory. They will have full powers of control in Bihar, while in Chota Nagpur they will be merely advisers of the Governor. They too may resent this limitation and prefer to concentrate their efforts on Bihar proper, and future ministers may even be reluctant to spare the services of their administrative staff for work in this area. Finally, if the Governor is to administer the area as an agent, he should be, as in other matters, the agent of the Governor General rather than of the Governor General in Council.

There appears little justification for such an anomalous system which can hardly be expected to work smoothly. The result may be renewed attacks on the system of administration in the backward tracts, such as have not been uncommon in the last ten years.

38. In the present notification under the Government of India Act, backward tracts are described by the existing administrative districts. The local Government are of opinion that parts of the Santal Parganas, Manbhum, Hazaribagh, Palamau, Singhbhum and perhaps Sambalpur and Angul districts need not be retained in a special position, but might, owing to the large proportion of non-aboriginal population, take their place under the Government of Bihar or of Orissa. It will be for the Boundary Commission to investigate this matter and advise which of the areas now treated as backward tracts should continue so, and what degree of protection each of such areas will require. It is recognized that it

may take time for a decision to be reached by the Boundary Commission, and in the transition stage the protection at present given by sections 52 and 71 of the Government of India Act must everywhere be maintained.

39. The local Government notice that in the second volume of their Report the Commission have omitted Angul from the list of backward tracts in this province. This omission must be due to inadvertence, as parts of Angul, particularly the Khondmals, are among the most backward parts of the province.

Part IV.—The Centre.

Chapter 1.

Paragraphs 135-163.—*The Central Legislature.*

40. On the proposal that the federal assembly should be elected indirectly by the Provincial Councils, the local Government are divided in opinion. The three Indian Members would prefer the present system of direct election, as they apprehend that indirect election will result in less satisfactory members being returned to that body and that it may result in the members being merely the representatives of the majority in the Council. On the other hand, His Excellency and the Honourable Mr. Briscoe recognize that indirect election will emphasize the federal nature of the constitution and will tend to ensure that the members returned to the Assembly go to represent the interests of the province as a whole. They consider further that, if election is made as proposed by the system of proportional representation, the various groups and parties of which the Council is composed will each be in a better position to secure the election of its representatives; there will be no need, therefore, for any reservation of seats.

Paragraph 140.—*The size of the Federal Assembly.*

41. It is unnecessary for a federal assembly elected in the manner proposed to be as large as an assembly elected directly, for " election by the elected " will secure due representation of all interests. But whichever system of election is adopted the local Government is inclined to hold that even an assembly of 250 to 280 members might be unduly large, and that it would be more suitable to have only 150 to 200 members. Apart from the argument noted by the Commission that too large a body would mean either that effective work would be impossible owing to prolonged debates, a very probable contingency, or that members would have little to do save pass through the division lobbies, there is the further argument that, if a province such as Bihar and Orissa is called upon to send 20 or 25 men to the assembly and has also an enlarged provincial council with possibly a Second Chamber, it would be difficult to find a sufficient number of suitable men for all these purposes; it would

not be possible, as contemplated by the Commission (paragraph 135), for the same person to be a member of both Council and Assembly.

Chapter 4.—*Relation between Centre and Provinces.*

Paragraph 181.—*Control of Governors by the centre.*

42. With the recommendation that control of the Governor should rest with the Governor General, and not with the Governor General in Council, the local Government are in complete agreement. The local Government do not appreciate the reasons which led the Commission in dealing with Backward Tracts (paragraph 133), to suggest that the Governor should be the Agent of the Governor General in Council; in this as in other matters, if the system there proposed is adopted, he should be the Agent of the Governor General.

Paragraph 182.—*Powers of Central Government over Provincial Governments.*

43. The local Government also accept generally the proposal that the superintendence, direction and control of the Governor General in Council should be limited to the specific matters detailed in this paragraph. The second category is in their opinion necessary, for a provincial Government from ignorance or inexperience might take action which would affect seriously the interests of a neighbouring province. It is suitable also that the decision whether intervention is necessary should rest with the Governor General, but it is for consideration whether the Governor should not at the same time be given power to suspend action which, in his opinion, might necessitate the intervention of the Central Government. Control in regard to the raising of loans has been reduced by the Commission to a minimum, but the control designed to effect co-ordination of borrowing, as well as to regulate loans raised to meet a deficit, appears adequate.

Paragraphs 184 *to* 187.—*Co-operation between Central and Provincial Governments.*

44. The proposals contained in paragraphs 184 to 187 are also fully endorsed. They follow the existing system whereby the expert advice of the departments of the Government of India is now available to local Governments. Assistance to provincial objects from Central funds and *vice versa* will also prove useful to local Governments, and the proposal is preferable to the rigid system now in force under the Devolution Rules.

Paragraph 190.—*Central and Provincial subjects.*

45. The local Government understand the proposal in regard to the Central Intelligence Department to mean that the Government of India will prescribe the organisation that the provincial Government must maintain. They are prepared to accept this, for it will be as necessary in the future as in the past to maintain a *liaison* between the Central Government and the provincial Governments in this Department.

Part VIII.—Financial Proposals.

46. The financial settlement contemplated by Sir W. Layton provides for the allocation of funds to the provinces on an automatic basis in accordance with certain fixed principles. The only alternative to a settlement on these lines would be a separate financial arrangement with each province on the basis of its alleged needs. The local Government do not advocate the latter alternative, which would inevitably lead to bickering between the provinces and would leave them in a state of uncertainty in regard to future developments. Subject to the observations which follow, they would, therefore, accept the fundamental principles of Sir W. Layton's scheme, but they consider that it will probably be necessary to make some preliminary adjustment with a view to remove existing inequalities before the automatic principle is applied. As the poorest province in India, as recognized definitely by the Meston Committee, the claim of Bihar and Orissa to special treatment can hardly be contested. It is, moreover, the only province which received no benefit from the remission of the provincial contributions, with the result that, relatively to the other provinces, it is even worse off now than it was before the contributions were remitted.

47. At the outset it will be convenient to examine briefly the individual proposals made by Sir W. Layton in regard to (1) the reallocation of existing revenues and (2) possible new sources of revenue.

Re-allocation of existing revenues.

48. *Foreign liquor and commercial stamps.*—There is no objection in principle to the exchange proposed in paragraphs 291 and 292 of the Report. But there are likely to be practical difficulties in realizing provincial duties on foreign liquor. The setting up of bonded warehouses in each province and the maintenance of inter-provincial customs barriers would be unworkable. The provincial excise duties would almost certainly have to be realized at the port of entry, and elaborate accounts would have to be maintained regarding the ultimate destination of the liquor. This would necessitate co-operation between the provinces; and, if differential

rates of excise were adoptd by the various provincial Governments, the resultant complications would give rise to insuperable difficulties. It seems probable, therefore, that a uniform rate of provincial excise would have to be determined by the Federal Assembly. This duty could then conveniently be collected at the ports of entry by the Central Government and thereafter distributed to the provinces on a basis either of consumption or of population. The view of the local Government is that the population basis should be adopted. It is simpler and more certain in its operation, and would obviate the necessity for maintaining complicated and probably unreliable accounts. Moreover, the cogent reasons which have led Sir W. Layton to propose this basis of distribution for the other National Excises apply with equal force to an excise on foreign liquor.

Income Tax.—The retention by the Central Government of all the income-tax realized from commercial firms means that this province would still get little or no advantage from the valuable raw materials (in particular, coal and iron ore) which it produces. Although they observe with regret that their long-standing grievance in this matter will not be met, the local Government are prepared in the interests of simplicity (which may be regarded as an essential feature of the new settlement) to accept the proposed basis of allocation of income-tax. Sir W. Layton suggests that the exemption limit of this tax should be lowered and the gradation steepened. The local Government doubt whether the lowering of the exemption limit would produce revenue commensurate with the labour involved, while it would inflict considerable hardship on a large class of wage-earners with moderate salaries, who already have difficulty in keeping their heads above water. Similarly, unless some allowances were made for wives and children and for earned incomes, the opposition which is bound to be created by proposals for steepening the gradation of the tax would be largely justified. For these reasons Sir W. Layton's estimate that the yield of income-tax can be increased by 5 crores within ten years appears to the local Government to be unduly optimistic.

Salt.—The proceeds of this tax are eminently suitable for distribution among the provinces on a population basis. It would, however, be unwise to ignore the possibility that this tax may hereafter be abolished for political reasons.

49. Sir W. Layton has proceeded on the hypothesis that, at the end of ten years, the Central Government will have found it possible to transfer a sum of 12 crores to the provinces, though he has admitted that exceptional circumstances may make it impossible for the transfer to proceed at the rate which he assumes. The local Government fear that he has over-estimated the rate of expansion of the Central revenues and has left too little margin for the financial effects of political unrest and other considerations which might prejudice the economic advance of the country. If

this be so, the question of the order in which the items of surplus revenue will be surrendered to the provinces should be considered from the point of view of affording the earliest possible relief to those provinces which are most in need of it. Out of the 6 crores of income-tax which it is hoped to make available for the provinces, it has been calculated that Bihar and Orissa would get 36 lakhs only; whereas, out of the 6 crores of salt tax, their share would amount to 90 lakhs. Sir W. Layton observes that " the allocation of income-tax should be begun as early as possible to meet the urgent needs of Bengal and to a less extent of Bombay." But Bengal would derive as much advantage from the transfer of salt as from the transfer of income-tax, and every other province (except Bombay) would gain appreciably by the prior transfer of salt. The local Government would feel bound to protest strongly against any arrangement whereby the interests of Bihar and Orissa and so many other provinces would be sacrificed to those of one comparatively opulent administration. They would also suggest that an early transfer of the proceeds of this tax to the provinces may go far towards reconciling Indian sentiment to the continuance of the tax.

Possible new sources of revenue.

50. *Surcharge on income tax and tax on agricultural incomes.*— In general the local Government believe that the provincial legislatures will be most reluctant to introduce new forms of *direct* taxation, and that the bulk of the new revenues will have to be raised by indirect methods. If only for this reason, it is improbable that the proposals for a provincial surcharge on income tax and for the taxation of agricultural income would materialize in the near future. Moreover the arguments (already stated) against any increase in the Central income-tax are equally valid as against the imposition of a provincial surcharge. So far as agricultural incomes are concerned, there are many difficulties of a political, administrative and legal nature in the way of their taxation. Such a tax would, for example, operate unfairly against those who had purchased permanently settled estates at their full market value and those with whom temporary settlements had been concluded at full rates. Excluding these important classes, it would be difficult to assess those whose agricultural income is derived mainly from their own cultivation. Moreover there is a widespread feeling that the rural classes are already contributing more than their fair share to the national exchequer. In fact, the reasons which have hitherto been held valid for exempting agricultural incomes from taxation are just as strong now as in the past.

Terminal tax.—The local Government are aware of the theoretical objections to a tax of this kind, namely, that it will have the same practical effect as an increase in freight rates and that it will re-act adversely on trade. On the other hand, it would be a

fruitful and elastic source of new revenue. It would be easily collected, and, being indirect, it would be less unpopular than many other forms of taxation. The burden of the tax would be felt less if the railways pursued their declared policy of reducing freight rates whenever possible. This they should be in a position to do, especially in view of the fact that, although railways may be expected to develop and expand, Sir W. Layton has not allowed for any increase in their contribution to central revenues. A terminal tax is already in existence in various local areas, and, although of course it should not now be duplicated in those areas, the local Government see no reason why the provinces which have not yet introduced it should be deprived permanently of this fruitful source of revenue. They would, therefore, press for the adoption of this proposal. The tax, which should be levied on incoming traffic only, might suitably take the form of a percentage of freight charges.

Excise on tobacco and matches.—The local Government see no objection to these excises, but understand that there is little prospect of obtaining much additional revenue from them until a working arrangement has been arrived at with the Indian States. In any case Sir W. Layton's estimate of a yield of 8 crores appears to be unduly high. For example, it is understood that his figure of 3 crores for the excise on matches represents the utmost that could be realized from a duty which would have the effect of doubling the present retail price level *per* box of matches; and the local Government entertain grave doubts of the wisdom or propriety of a measure which would have this effect.

How would the scheme operate for Bihar and Orissa?

51. If all Sir W. Layton's expectations were realized, there would be available for the provinces at the end of ten years additional revenue amounting to 36 crores. Out of this sum Bihar and Orissa might expect to receive 4,20 lakhs.

The details are as follows :—

	Total.	*Share of Bihar and Orissa.*
	Rs.	*Rs.*
Income-tax on personal income ...	6,00	36
Surcharge on income tax	3,00	18
Tax on agricultural incomes ...	5,00	40
Terminal tax	8,00	1,18
Salt	6,00	90
Tobacco and matches	8,00	1,18
Total	36,00	4,20

The share which would fall to this province is 11.66 per cent. of the whole. In view of the fact that the population of Bihar and Orissa forms 14.78 per cent. of the total population of the 8 provinces concerned, it may fairly be contended that the share indicated above is not in excess of what this province could reasonably claim, even if the inadequacy of its existing revenues did not entitle it to special treatment. If there were really any reasonable prospect that its revenues would be increased in the near future by so substantial a sum as 4,20 lakhs, it would probably have been prepared to forego its strong claim to such special treatment and to accept the present proposals without further demur. But the local Government apprehend that the prospects held out by Sir W. Layton are in danger of being seriously whittled down. As already pointed out, it may not be found feasible to enhance the existing rates of income-tax or to impose a tax on agricultural incomes; pressure may be brought to bear from certain quarters to postpone the transfer of salt to the provinces; the departmental objections to a terminal tax may be allowed to prevail; and it would in any case be prudent to reduce by at least 30 per cent. the estimated yield of the excise on tobacco and matches. In such circumstances the total sum available for the provinces would be reduced from 36 crores to about 10 crores, and the share of Bihar and Orissa would be not more than about 1,06 lakhs, made up of 82 lakhs (rather hypothetical) from matches and tobacco and 24 lakhs from central income-tax. This is a prospect which the local Government are bound to view with grave concern. As against a total potential increase of little more than 1 crore in their income, they will be required to meet a current deficit in their annual budget of some 35 lakhs, and will be saddled with new expenditure in the shape of a separate Accounts staff, a more costly Legislative Council, &c. Plainly there will be no appreciable margin for that expansion in their activities which is so urgently necessary, and the nation-building services will continue to be starved. Thus the main stumbling-block to the successful working of the Montagu-Chelmsford Reforms will remain. It is these considerations which led the local Government to express the opinion, at the beginning of this review, that some preliminary adjustment to remove existing inequalities will have to be made before the automatic principle is applied.

The Provincial Fund.

52. The distribution on a population basis of the proceeds of the Provincial Fund is a feature of Sir W. Layton's scheme which has the strongest support of the local Government. This will go some way towards securing for the poorer and more densely-populated provinces an equitable share in the wealth derived from the economic activities of the country as a whole. The local Government have already given their reasons for holding that the excise

on foreign liquor, which is akin to the excises on salt, matches and tobacco, should be included in this Fund.

53. The Commission recommend that any proposal affecting the Provincial Fund which is supported by three provincial Finance Ministers must be laid before the Federal Assembly. The local Government think that, as there may be considerable divergence of interests and three major provinces might be able to carry proposals unfair to some of the others, this provision should be altered so as to require the support of a clear majority of the provincial Finance Ministers. The safeguards proposed in the last two sub-paragraphs of paragraph 163 of the Report are necessary to prevent constant attempts to change the basis of the financial settlement, and should be retained for that purpose. But at the same time, in view of the many uncertain elements in the scheme, the local Government are not opposed to a provision permitting a review of the financial settlement as a whole after some fixed period, when its general results have become apparent.

Schedule for Transfer of Revenues.

54. The local Government attach great importance to the views expressed by Sir W. Layton in paragraph 295 of the Report in regard to the early and punctual transfer of Central revenues to the provinces. His proposal is that such transfer should be a first charge on the surplus of the Central Government. Admittedly, however, the Central Government must decide whether the surplus of any year is to be treated as recurring or non-recurring; though the local Government would urge that any surplus which is declared to be non-recurring should be made over to the Provincial Fund as a non-recurring assignment.

Financial Aspect of the Proposed Partition of the Province.

55. Throughout this review of the financial proposals the local Government have endeavoured to deal with the problem as far as possible from a not entirely provincial standpoint. Where, however, it has been necessary to consider the provincial interest, they have had no option, in view of the uncertainty as to the future of Orissa and the " backward tracts," but to discuss the problem from the standpoint of Bihar and Orissa as at present constituted. But, if Orissa is to be formed into a separate province and if Chota Nagpur is to be administered as a separate (or partially separated) unit, it is obvious that new financial problems of great importance and complexity will have to be faced. Both Orissa and Chota Nagpur are " deficit areas." Roughly speaking, it may be said that the revenue derived from each of these tracts is barely sufficient to meet their " running charges " and that neither of them contributes anything towards the " overhead charges "

of the province as a whole. By the separation of these areas from Bihar proper, the latter would obtain some relief. Orissa, on the other hand, would be saddled with its own overhead charges, and would find great difficulty in meeting them. The share which Orissa might expect to receive from the contemplated new revenues would be a very small one. Being less thickly populated than Bihar proper, it would derive less benefit from the Provincial Fund, and the income-tax realized in the Oriya-speaking tracts is comparatively small. One method of giving some measure of relief to the new province of Orissa would be by the remission of the interest charges (amounting to 8½ lakhs a year) payable under Devolution Rule 24 in respect of irrigation works which were undertaken by the Governor General in Council more than sixty years ago and are now maintained by the provincial Government at a dead loss. Another point to be borne in mind is that the new province will, of course, require a capital grant, such as was given to Bihar and Orissa on its separation from Bengal, to enable it to meet its heavy initial expenditure.

56. The problem presented by Chota Nagpur is on a different footing, as the intention appears to be that this tract would in any case receive special financial assistance from the Government of India.

Part IX.

The Future of the Services.

Paragraphs 328, 329 and 331.

57. The recommendations of the Commission on the important question of the future of the services may be summarised as follows :—

(i) That the Security Services must continue to be recruited as All-India Services by the Secretary of State;

(ii) That the Secretary of State should have power to fix the quota of such officers allotted to each province, his decision being arrived at after discussion with provincial Governments and the Government of India and being subject to reconsideration from time to time;

(iii) That the rate of Indianisation laid down by the Lee Commission for such Services should be maintained.

As observed in the provisional memorandum submitted by the Governor in Council to the Statutory Commission, the question of future recruitment of the services hinges largely on the question whether regular recruitment of Europeans is necessary or not. The Indian members of the local Government agree that the existing members of the Security Services must, as far as possible, be retained and should continue to enjoy the same safeguards and conditions of service as at present, and that a European element will be required for some time to come.

58. The Honourable Sir Muhammad Fakhr-ud-din considers that it would be more consistent with the principle of provincial autonomy if recruitment of such officers were made through, rather than by, the Secretary of State. The Honourable Sir Ganesh Datta Singh, while holding that the proposals of the Commission, especially that contained in paragraph 329, are inconsistent with provincial autonomy, considers that no special steps should be taken to secure the services of Europeans and no fixed percentage of posts should be reserved for them. Simultaneous and identical examinations should be held both in India and England and the best candidates should be selected, irrespective of race. In the opinion of both the Honourable Ministers, Indian recruits appointed under the present examination system, and in particular those successful at the London examination, enjoy greater prestige than officers appointed in India. The examination in London should, therefore, continue for both Europeans and Indians.

59. Both these views contemplate the continued recruitment of Europeans, but on no regular plan. The official members of Government hold that the objection to such recruitment is that the standard will inevitably deteriorate; if Europeans continue to be recruited, the recruits should be of a high standard with those qualities other than intellectual which have proved useful in the past and will prove no less useful in the future. Recruits of this calibre will not be easy to obtain unless the conditions of recruitment remain as at present. For this reason the present system accepted by the Commission is preferable to any casual recruitment of Europeans. In this respect the Security Services stand on a different footing from professional services.

Recruitment by the Secretary of State is, it is true, inconsistent with the full provincial autonomy, but a similar inconsistency pervades the whole constitution and cannot be avoided as long as the responsibility for British India is divided between the British Parliament and the Indian people. The Governor and Governor General are given certain well-defined duties as the Agents of Parliament in regard to Provincial Governments, and the constitution provides that in a serious emergency the Governor assumes control of the administration; there must, therefore, be no deterioration of the All-India and provincial security services. In time no doubt, as contemplated by the Commission, the quota of officers allotted to the provinces will be reduced, and might ultimately disappear, but till further experience has been gained of the working of the new constitution it is not possible to say to what extent and when a reduction can be effected. Further, even if a reduction were made in the number of officers allotted to the provinces, officers would still be needed for the Central Government and the various departments which will remain under its direct control. In view of this consideration, recruitment on the present basis should continue at least for a time; the Indian members of the local Government agree that the question might suitably be reconsidered in

1939, by which date Indianisation of the Indian Civil Service to the extent recommended by the Lee Commission will have been completed.

60. The Honourable Ministers are not in favour of the continuance of control of future members of the Security Services by the Secretary of State, and regard it as more consistent with provincial autonomy that control should rest with the provincial Government. It is clear, however, that even under the system of recruitment proposed by the Commission, the immediate control of officers allotted to the provinces will rest, subject to any statutory duties of the Governor, with the provincial Government, just as at present officers of the Transferred Departments are under the control of the Governor acting with his Ministers. If, however, recruitment is to continue on an All-India basis in the manner suggested by the Commission, the ultimate duty of protection should rest with some authority, other than the provincial Government, to which officers would have a right of appeal, such as that granted to them at present by the statutory rules framed under the Government of India Act.

Paragraph 330.—*Forest and Irrigation Services.*

61. In the opinion of the local Government there is no objection to the provincialisation of these two services in the province of Bihar and Orissa. It might, however, result in securing better candidates for these services if recruitment were carried out by the all-India Public Service Commission, the candidates selected by it being distributed to the provinces.

Paragraph 332.—*Safeguards for position of existing All-India Services.*

62. The Commission recommend the retention of the existing rights of, and safeguards for, the existing members in the All-India Services; in particular they recommend, with a view to preventing premature retirements, which would be disastrous not only to administration at the moment but to recruitment for the future, that retirement on proportionate pension should remain open without limit of time to any officer who might under the present rules have so retired upon the coming into force of the constitutional changes now proposed. This recommendation, about which the Indian Civil Service Association is emphatic, has the strong support of the local Government; it means that all members of the service who come to India before the new constitutional changes come into effect will enjoy the concession.

63. The local Government also agree with the same Association that all the safeguards contained in the Government of India Act and in rules under the Act, in particular in regard to matters of

discipline, appeal and service conditions, must be retained unchanged.

64. Though it is not desirable to discuss the matter in detail, the local Government think it right to bring to the notice of the Government of India that members of the services attach great importance to the recommendation of the Commission, endorsing that of the Lee Commission, that adequate provision should be made for safeguarding officers' pensions, and to the protection of the interest of subscribers to the Provident Fund against the possibility of future depreciation in the exchange value of the rupee. The I.C.S. association also claim that, in the event of posts being abolished, they should receive special consideration such as is suggested in paragraph 360 for members of the India Office staff.

Paragraphs 336-339.—*Public Service Commission.*

65. The arguments in favour of Public Service Commissions, to secure the efficiency of the services and their protection from political influences, are fully appreciated by the local Government; in particular they recognise that the appointment of such Commissions will relieve Ministers of a difficult and invidious duty. They recognise also that it is necessary to frame the constitution of these Commissions in such a way as to remove the members completely from all political influences. They agree, therefore, that appointment to the Commission should rest with the Governor as an authority independent of party interests, and that the members should only be removable by him. If this is prescribed, the further suggestion that members should not be eligible for further employment under the Crown in India is unnecessary and might hamper the Governor in his selection. One difficulty anticipated is that, in the early years, the provincial Public Service Commissions may not have sufficient work to occupy their full time, and Governors may wish to appoint members of the Services to such Commissions in addition to their ordinary duties; the prohibition proposed would prevent any such appointment.

Further, the position of such a Commission *vis-a-vis* the provincial Government should be defined in the Act and should not be left to be settled by convention.

The Statutory Commission suggests that a separate Act for this purpose should be passed by each provincial Council, failing which the provincial Government would be required to make use of the Central Public Service Commission. To this suggestion the local Government see considerable objections. The Act of the local Legislature is to be required to comply with the orders of the Secretary of State in Council. But it is possible that a newly-elected Council might resent this and attempt to introduce provisions about the constitution and functions of its provincial Commission which

did not follow the prescribed mould. In such a case there would be no alternative but for the Governor to refuse his assent, and such action, if taken at an early stage in the life of the new Council, might give rise to unnecessary friction between the Governor and his Council. Further, it is advisable that, if such legislation is to be forced on the provinces, there should be uniformity in its essential provisions; this can best be secured by prescribing the constitution and functions of these Commissions in the Government of India Act.

Part X.

The High Courts.

66. The Honourable the Chief Justice and the Judges of the Patna High Court support, with only one dissentient, the proposal that the High Court should be under the administrative control of the Central Government. With this proposal the Governor in Council is also in agreement. There is little force in the argument put forward that it is desirable to remove the anomaly which at present exists whereby the Calcutta High Court is under the administrative control of the Government of India while other High Courts are under a local Government, for this anomaly could equally well be removed by putting the Calcutta High Court under the Government of Bengal. His Excellency in Council is, however, impressed by the argument that it is of supreme importance to maintain the complete independence of the High Court Bench, not only in respect of private litigation, but also in controversies in which the local Government may be involved. Further, a High Court may serve more than one province, in which case difficulties may arise if it is placed under the control of one local Government. The transfer of administrative control to the Government of India need not affect the appointment, promotion and dismissal of the subordinate judiciary, but existing arrangements may continue, subject to any rules that may in future be introduced regarding the functions of a provincial Public Service Commission.

67. From this view, however, the Honourable Ministers dissent. They contend that under present conditions the local Government have not interfered in any way with the judicial functions of the High Court, and urge that, if the High Court were removed to the control of the Government of India, its actions would only be subject to discussion and criticism in the Federal Assembly, the members of which would have little knowledge of the facts and would deal only with broad issues. They recommend, therefore, that the administrative work of the High Court should be open to discussion in the Provincial Council; if this were permitted they would have less objection to the transfer of control.

An Estimate of the Reception given to the Recommendations of the Indian Statutory Commission in Bihar and Orissa.

In the Memorandum submitted to the Statutory Commission on the working of the Reforms in Bihar and Orissa an attempt was made to estimate their effect on the masses, and to gauge to what extent political education had progressed. The general conclusion was that there was little sign that the raiyats had as yet absorbed much political education, outside their own immediate interests, while in the view of many officers in close touch with realities in the districts, the masses had scarcely been touched by the Reforms. Such being the conditions, the publication of the report of the Statutory Commission in an agricultural province, such as Bihar and Orissa, with few large towns and a press which only reaches an infinitesimal proportion of the population, could hardly be expected to arouse the interest of the vast mass of the people, ignorant of constitutional problems and hardly capable of giving an opinion on the recommendations of the Commission even if explained in the most simple language. Even in an industrial centre, such as Jamshedpur, educated Indians, though showing sympathy with nationalist leaders as expressing their own aspirations, are reported to have taken little interest in the problems raised by the report.

Further the time of its publication was most unfavourable appearing, as it did in the midst of a campaign designed to kill it before its birth, and to render the present system of government and any development of it impossible. Had it come in a calmer atmosphere, it might have been more carefully studied by the politicians and subjected to more critical examination. As it is, it has mainly been condemned unheard. Where public opinion has found expression, it is invariably an echo of the views expressed in newspapers and in the speeches of politicians, which are generally hostile to the Commission and its Report. Though it is true to say that the recommendations have been received with general disappointment by that section of the public which is vocal and which has taken any interest in the political situation, the adverse views expressed are not based on a critical or rational examination of the Report but rather on a confirmed prejudice that nothing recommended by seven Englishmen, however wise, can be fair or just. Where criticism has been offered, it has not dealt with the Report in any detail.

2. The general attitude of the various sections of the population may be summarised as follows :—

(1) The lawyers, as a class, regard the Report as a reactionary document, and a further proof of a desire on the part of the British Government to baulk Indian national sentiment and its legitimate aspirations. Even the changes proposed in the constitution of the provincial Governments, though conceding a form of provincial autonomy and the transfer of law and order, are regarded as not sufficiently thorough; the Governor's emergency powers have received special criticism; while the

limited changes in the Central Government are roundly condemned as insufficient. Similar expressions of disapproval would certainly have followed any other recommendations which the Commission might have made.

(2) The Hindu community is probably more in sympathy with the Report than would appear on the surface; their views can hardly be estimated from the views of the lawyer class but though possibly many of them sympathise with the recommendations in secret, very few are prepared to brave the Congress and give them any public support. Orthodox Hindu opinion is also opposed to such proposals as the enfranchisement of women.

(3) The Muhammadans are on the whole satisfied with the Report but in some cases show a tendency to join in the vague chorus of disapproval, more from a desire to strengthen their tactical position than from any reasoned convictions.

(4) The most serious criticism in this province has come from the landlords who strongly disapprove of two recommendations of the Commission—the first to abolish their separate franchise and separate constituencies, and the second the proposal to tax agricultural incomes. They also view with apprehension the proposed rapid extension of the franchise.

(5) In Orissa, except in Balasore, where the congress associations have been particularly active, the Report has been favourably received, since it definitely recognises the claims of Oriyas for an amalgamation of the Oriya-speaking tracts, and keen disappointment will be felt if these proposals are not carried into effect at an early date.

The position at present is that the forthcoming Round Table Conference at London has superseded the Report of the Commission in the public interest. Political opinion, with the exception of the extremists of the Congress party, is attracted by the idea of a Conference with an open agenda for the settlement of the constitutional problem.

CENTRAL PROVINCES GOVERNMENT.

From the Chief Secretary to Government, Central Provinces and Berar, to the Joint Secretary to the Government of India, Reforms Office, No. R-15-IV, Dated Nagpur, the 12th of August, 1930.

Subject :—Report of the Indian Statutory Commission.

In your letter No. F-67-30-R., dated the 24th of June, 1930, you asked for the views of this Government on any of the recommendations of the Indian Statutory Commission which appeared to have a direct interest for it, and in particular on the proposals contained in certain specified chapters. You asked also for an estimate of the reception accorded to the Commission's report in this province. This Government was not consulted before the decision was taken to antedate the appointment of the Statutory Commission, nor yet about the constitution of its personnel, nor again before the declaration of last November. It is the more gratified, therefore, to have the present opportunity of presenting its views.

2. *Reception of the Report.*—The Central Provinces and Berar are dominated by the Hindus. The Muhammadans are a negligible quantity numerically, whilst the depressed classes, despite their numbers, are so backward, socially and educationally, as scarcely to be vocal. Amongst the Hindus the educated middle classes are supreme politically. There are no rich landlords wielding feudal power, and playing a part in public life, as in the United Provinces and Bihar and Orissa, whilst the non-Brahmin revolt against the Brahmins has not gone far enough, as in Madras, to produce a division amongst caste Hindus. Consequently, it was not possible in this province, as in other provinces, to obtain effective support for the Statutory Commission from the Muhammadans and other minority communities and interests, so that locally it never had a chance. The determination to oppose whatever its report contained has been enhanced by its failure to notice or make allowance for the two things on which Indian political thought at the moment is chiefly concentrated; namely, the declaration of last November, and the civil disobedience movement. It cannot be said either that the Muhammadans have been satisfied. The local Muhammadans know that they themselves have done nothing to deserve special favour, but their expectations were roused by the support given to the Commission by Muhammadans elsewhere, and disappointment has been felt that the result of the Commission's findings on the whole is to leave things, so far as Muhammadans are concerned, only where they were. In a word the report has been condemned generally; the only good word for it coming from the depressed classes.

3. *General principles.*—The first question put to this Government is whether it accepts the three principles which underlie the Commission's proposals, as set out in Part I of Volume II of its report. The answer to this question is that it approves the principle of elasticity. It is never easy to frame a constitution for any country, and least of all for one of the size and magnitude of India. Much of the trouble caused in the past in India, existing now, and likely to continue until the present enquiry is over, is due to the attempt to do too much at once. Looking back it is easy now to see that it would have been better if provincial independence had been developed gradually during the last ten years by the progressive transfer of subjects, and if the difficult question of the central Government had been left to be tackled separately at the present juncture. As it is, two big fences have now to be taken at once; not without obvious risks. This Government is also agreed as to the need for safeguards, though different views prevail as to the extent and nature of them. This matter will be discussed in detail in dealing with the actual proposals. About the federal idea there is some diversity of opinion. Whilst all members of the Government are agreed that autonomy in the provinces is to be sought, and whilst all appreciate the desirability of an all-Indian solution, based on ultimate federation at the centre, the weight of opinion is that the Commission has sacrificed too much of the realities of the present on the altar of its dreams. All said and done, there are few states which are likely to come into the federation proposed in the near future, and until this attitude is changed is it not wise to build too much upon the federal foundation. This view will be developed later in dealing with the structure of the central Government.

4. *Structure of the local Government.*—I am now to turn to the principal question affecting local Governments, namely, that discussed in Part II, relating to Governors' provinces. This Government has no doubt that in the provinces dyarchy should be abolished and a unitary Government set up. It has no doubt either that the conduct of the administration as a whole, including law and order, should rest with a provincial cabinet, the members of which should be chosen by the Governor, preferably on the advice of a Chief Minister, and that such members should have joint responsibility for action and policy. The preponderance of opinion, however, is that all members of the cabinet should be chosen from the legislature, and that there should be no official member. It is pointed out in this connection that, unless there is statutory provision for an official member, which the Commission itself does not suggest, it would be impossible in practice for the Governor to force one for long on to an unwilling legislature, and that it is certain that the legislature of this province would not be willing. At the same time the need for expert advice to the ministry, and the advantage of having an official of standing in close touch with

the Governor and his Ministers are patent. The best plan for securing this advantage will be to arrange for a Financial or Revenue Adviser or Commissioner, who would be available for cabinet discussions when his presence was desired by the Governor or the Ministers. Such a plan would be preferable to that of a Cabinet Secretary bearing some special relation with the Governor.

5. *Powers of the Governor.*—This Government also accepts without question the position that the Governor must enjoy overriding powers, but, whilst all agree that these powers must be as extensive as proposed by the Commission in the case of a declared emergency, there is a general feeling that on the administrative side at any rate, there is no need to emphasise them, as is done by the Commission, for every day purposes. The strength of the Governor's position in a province depends on his reputation for impartiality. When he assumes office he makes oath " to do right to all manner of people without fear or favour, affection or ill will ", and his power for good depends on how firmly he keeps to this position. Throughout the Commission's report there is a tendency, largely unconscious, to treat the Governor as if he existed specially to protect the rights of minorities, European members of the services and so on, and to ignore the fact that majorities also have rights, which it is the Governor's duty to enforce. Moreover, as a practical measure, it is useless to envisage a Governor in constant need of power against his Ministers. Ordinarily, so long as there is mutual confidence between them, no overriding powers are necessary, as the experience of this province during the last five years has shown*; whilst, once mutual confidence has gone, the time for the Governor to part with his Ministers has come. Therefore this Government would prefer that the overriding powers of the Governor in ordinary times should not be defined, but should be left vague, as now on the transferred side with his Ministers, so as to cover only the obligations imposed on the Governor by his instrument of instructions. On the financial and legislative side the personal equation is less marked, and the powers proposed for the Governor may be wider, if necessary, but here also the dominant consideration should be that the powers given should be such as will enable him to fulfil the obligations placed on him by his instructions during the transitional period for which safeguards are required, and these instructions, as now, should stress his duty to all classes, and not only to minorities or special interests.

6. *Provincial Legislature.*—The proposals of the Commission with regard to the provincial legislature are accepted generally by

* The statement in paragraph 285 of Volume I of the Commission's report that the ministry appointed in January. 1927, in the Central Provinces lasted only a few days is incorrect. The ministry lasted for nearly two years. It is not necessary to elaborate the matter, but the Commission has missed the whole point of the constitutionally interesting Central Provinces experience.

this Government, except in so far as, first, the size of the Legislative Council itself is concerned. The details will have to be worked out later by the franchise committee, which it is agreed should be appointed, and until this has been done this Government must reserve its final opinion, but as at present advised it does not think it possible to have a house of much more than 100 members. This Government is also opposed to the suggestion that the depressed classes should have representation on the basis of three-quarters of their population. To set up a qualification of this sort, differing totally from that adopted for any other community, is to sow the seeds of future trouble. The only safe method of giving weightage to a backward class is by some arbitary decision based on no definite principle, and to enforce it purely as a transitional measure until the community concerned has progressed in education and a sense of civic responsibility. Under the Commission's scheme in a house of 100 the depressed classes would have 14 seats. Quite apart from the fact that 14 suitable candidates would not at present be available, such a development would be against all social feeling. At present the depressed classes have 4 members. If, as a result of the enquiry of the franchise committee, that number came roughly to be doubled, this Government considers that enough would have been done, but it would leave the details to the franchise committee itself. It thinks also that it should be an instruction to that committee to devise some representation for the jungle people. The depressed classes have obtained a large measure of the Commission's sympathy, whilst the numerous inhabitants of the extensive jungles of this province have received no special consideration. This Government is also uncertain about the proposals made for the enfranchisement of women. It does not feel that the sweeping change suggested has the support of enough evidence, and would prefer to refer the matter for the further consideration of the franchise committee. This committee should also go into the question of the franchise qualification itself. Whilst this Government is in favour of an extended franchise, it doubts whether the Commission's proposals are workable. In the time allowed it has not been possible to calculate the exact details.

7. *Second Chamber.*—For reasons already given this Government does not consider that there is material available in the province to man a second chamber, nor could the province stand the expense of such an institution. Instead the larger landholders should retain the weightage they now enjoy by special representation in the Legislative Council itself.

8. *Boundaries Commission.*—The Commission's proposals about a boundaries commission do not appear to take sufficient account of existing facts. The real point at issue is whether in future India is to be administered in large provinces, roughly as now, or is to be cut up into numerous linguistic areas. Obviously, if the

latter course is contemplated, it is idle to go on with constitution making until the new administrative units have been fixed, and the work of the boundaries commission should be undertaken in the first instance, and the present enquiry postponed indefinitely. On the other hand, if large provinces are to remain, the boundaries commission should not be appointed until the new constitution has got into working order, and it should then be an instruction to the commission to make only such proposals as are compatible with the large province system. If the slate were clean, this Government feels that there would be much to be said for smaller administrative units, but as things stand the commitments in the matter of buildings alone are such as to make the creation of numerous new provinces a financial impossibility. In the circumstances this Government advises that a decision be given in favour of the present large province system, and that the reforms now under discussion be not held up, but that, when they have come into operation, a boundaries commission be appointed to report on the two cases of Sind and Orissa, subject to the instruction indicated above. There is no need for the commission to function in this province apart from the Orissa question.

9. *Central Government: Its structure.*—It is now necessary to pass to the thorny and difficult question of the constitution and powers of the Central Government. Though there is difference of opinion as to the wisdom of or necessity for the declaration of last November, this Government as a whole feels that its promulgation, followed by its solemn reaffirmation in the recent address of His Excellency the Viceroy to the Legislative Assembly, precludes the solution of an irresponsible central cabinet propounded by the Commission. Unless it is recognized that responsibility to the central legislature in some form must be conceded, it seems idle to proceed with the Conference in London at all. The demand for responsibility in some shape is so widespread amongst Indians of all classes that it would be hazardous in the extreme to hold a conference at which it would be rejected. At the same time this Government recognizes that during a transitional period there must be reservations. Naturally there is difference of opinion as to the extent and nature of these restrictions, but the matter is one more for the Government of India to advise upon than for any local Government. At first, this Government was attracted by the idea that whatever subjects were to be reserved, or safeguarded, should be placed under the Governor General personally, and the remaining subjects entrusted to ministers responsible to the legislature. Further consideration, however, has shown that any such arrangement would impose too great a strain on the Governor General, and would bring him into controversy personally to an undesirable extent. Moreover, the main subject requiring reservation, namely, defence, is not susceptible to this treatment. Quite apart from the slight involved to Indian sentiment by the army

scheme propounded by the Commission, as to which more will be said later, the lesson of the Great War is that no army can function *in vacuo*. Under modern conditions a people at war is at war throughout all the branches of its activities. Without the willing co-operation of the civil power in the matter of supplies, transport, propaganda, finance, and even the provision of recruits, a modern army is helpless. The scheme of the Commission seems to neglect too much this essential consideration. But if the plan of exclusion does not suit the army, it is useless to pursue it in the case of less important subjects. Thus one is forced back on some form of cabinet which, at least in discussion, will be unitary in character. There are several ways in which such a scheme might be worked. For instance, the Governor General could appoint official members to hold the reserved, and non-official members responsible to the Legislative Assembly to hold the other portfolios. All cases might be discussed in common, and the decision taken on the appropriate side. In effect this is the plan of the Indian Central Committee, and it has the advantage also of experience, in that it repeats the arrangement worked successfully in several provinces under the present system of dyarchy. Another possible arrangement would be for the Governor General to have a mixed cabinet of officials and non-officials of his own choice as before, but for it to be an obligation on him to choose the majority of the members from non-officials belonging to the central legislature, whilst he would also be bound by an instruction to keep such members in power only for so long as they were supported generally by the legislature. Such a cabinet, subject to overriding powers vested in the Governor General similar to those proposed in paragraph 5 of this letter for the Governor, might have full authority to decide all matters by a majority of votes. Under this plan responsibility to the legislature would be indirect, but none the less real. In practice no Governor General could long retain as a minister any non-official who failed to bring him the support needed to get the Government's proposals through the legislature. Other methods will no doubt suggest themselves, and probably all, like the two already mentioned, will be open to the criticism that they suffer from an element of illogicality, in that they leave the central executive neither wholly responsible, nor wholly irresponsible, to the central legislature. This Government, however, is not afraid of such a deviation from the purely logical standpoint, for it regards some measure of illogicality as inherent in the problems, so long as the transitional stage of safeguards lasts. Given the will to work any constitution, it will be worked, and this Government would leave it to the Conference to decide what it is ready to operate, believing that an inferior scheme, with good-will behind it, is better than a superior one with opinion against it. Failing agreement, this Government would prefer to see the *status quo* maintained, and the question of the centre referred back for further

discussion in India, in the hope that there by some ingenious process a scheme for a purely logical solution of an illogical situation will be worked out.

10. *Central Legislature.*—The main opposition amongst Indians to the plan for the Legislative Assembly propounded by the Commission arises from the feeling that all said and done, during the last ten years the Assembly has voiced satisfactorily the national aspirations of the country. It is also felt that it has to its credit a large amount of practical work. Moreover, public opinion has not yet been educated to the idea of a greater India, waiting to be federated into a common whole. The idea itself is conceived grandly, and is in consonance with the trend of modern Indian thought, but it has not yet got home to the ordinary voter. It has not even become part of the mental equipment of the rank and file of the educated classes. Human nature being what it is, it is not surprising that the position should be as stated. Even in England, with its more advanced education, the Imperial idea, now so dominant, has taken many years to assert its position. This Government feels that there is much force in the present Indian standpoint on this question. As already stated, it is open to grave doubt whether, if the Commission's scheme were adopted, many states would come into it for many years to come, whilst there is truth in the contention that the recent happenings in the Assembly have been due more to personalities than to defects inherent in the machinery. It is also undoubted that in the field of railways, posts and telegraphs, commerce, finance, and so on, there is ample work for a purely British Indian legislature and ministry to tackle. Public opinion also cannot be overridden in a matter of this sort. Unless those for whom the reforms have been designed are willing to work a federal assembly, it is of little use to force its creation. In the circumstances, whilst differing somewhat as to the desirability of the federal idea at this stage on its merits, this Government advises that a solely British Indian Assembly should be retained.

11. *Central Legislature: Method of election.*—Given an Assembly as at present for British India only, this Government does not see any overwhelming advantage in the adoption of a system of indirect election to it, particularly as opinion amongst the educated classes is against this step. Moreover, there are practical objections to the actual scheme propounded by the Commission. It is not possible practically for a member to sit both in a central and a local legislature, and as the members of local legislatures are likely normally to elect representatives from amongst themselves, numerous bye-elections will result, so soon as the central legislature has been filled up. Again, given a Legislative Council of about 100, which as stated in paragraph 6 above is about the limit practically for this province, and a central legislature of the size suggested, the quota for selection under a system of proportional representation, will be so low as to be dangerous. Further, even with

the increased number of members proposed for the Legislative Assembly, constituencies will never become really manageable in the sense that they are in a small country like England. Even if they could be made manageable now, they would become unmanageable again as the franchise spreads. And there are limits to the size to which the Legislative Assembly itself can be allowed to grow. In the circumstances, and whilst recognizing the force of the Commission's arguments, this Government would keep to direct election for the present for the Legislative Assembly, reserving the system of indirect election for the provincial representatives in the Council of State. Such a decision will, of course, necessitate the adoption of arrangements similar to those proposed for Legislative Councils for the representation of minorities. This fact is regrettable, but, pending some agreement between the majority and minority communities, cannot be avoided.

12. *Franchise.*—If the method of direct election is retained, as above suggested, the question of the nature of the franchise will become of importance, and should be referred to a franchise committee. The same committee should weigh the claims of women, landholders and so on, on lines similar to those proposed for Legislative Councils. It might also consider the size of the Legislative Assembly. Given the inevitability in a country like India of large constituencies, this Government feels that there is little to be gained by making them a little smaller at the expense of a large increase in the number of members. A more practical course will be to decide first how large an Assembly will be desirable at present, and to fit the constituencies to that number.

13. *Council of State.*—This Government accepts the continuance of the Council of State to legislate for British India in the same way as the Assembly, but would make it the means of familiarising men's minds with the federal idea and the system of indirect election. To this end each province, or special area, should be represented in it by persons with the necessary qualifications chosen, in the case of provinces, by the Legislative Councils. Whether it would be possible to go further and use the Council of State, or a Committee selected from it, to sit with representatives of the Princes and Ruling Chiefs as a Council for Greater India, or whether a separate Council for this purpose will be needed, is a question for the consideration of the conference. There are obvious dangers in having too many Councils at work.

14. *Relations between the Centre and the Provinces.*—This Government accepts the general position that there must be some control over the provinces by the Central Government, but what form that control should take, and how it should be exercised, can hardly be determined finally until the nature of the Central Government itself has been determined. All that can be said for certain at this stage is that no system will be satisfactory, which does not define rigorously what lies and what does not lie within

the Central Government's sphere, and which does not provide that the Minister at the centre shall keep within his allotted sphere and not go beyond it. Some rapid method of adjudication as to where the boundary is should also be laid down. The decision of the Governor General, as now, would be accepted by this Government. It should also be made clear that the Governor will not be subject to the Governor General in Council for the purpose of enforcing the orders of the Central Government against a provincial ministry, or for any other purpose. The Governor in his personal acts should be subject to the control only of the Governor General. If the Central Government fails to obtain obedience from a local executive in any matter within the central sphere, its remedy will be to persuade the Governor General to exercise his authority over the Governor to dismiss his Ministers and get others who will obey orders.

15. Subject to the foregoing remarks the following views are recorded provisionally on proposals (1) to (8) on this subject contained in paragraph 182 of Volume II of the Commission's report. In the first place this Government does not consider that the supply of information [head (3)] is a matter of control. A power to call for information should be taken separately. Again questions about the employment of members of All-India services in the provinces [head (5)], and the safeguarding of imperial interests [head (6)] will be better dealt with in the chain of relations between the Secretary of State, the Governor General and the Governor. Similarly, questions arising between India and other parts of the Empire [head (7)] and of implementing international agreements [head (8)] should be made central subjects. As regards the remaining three heads (1), (2) and (4) this Government is in substantial agreement with the Commission. It recognises that in the absence of a self-sufficient central agency in the provinces, the provincial Governments must act as agents to the Central Government in certain matters, and must submit to reasonable control in so doing. It recognises also that there are many more matters of inter-provincial interest, requiring co-ordination from the Centre, than was contemplated when the existing division of subjects was made.

16. *The Army.*—This Government is not concerned directly with the proposals about the army, nor is the province one which has up till now furnished recruits or material to any important extent for the defence of the country. All that need be said, therefore, under this head is that no local army or militia is desired or expected. So far as this Government can judge, local Indian sentiment is not in favour of an army divorced from the control of the Government of India as proposed by the Commission, nor would Indians generally be willing to barter their duty to defend themselves for an Imperial subsidy. What Indians want is that the Indian army

should remain, as it now is, on an equality with the British army, in the toils and achievements of which it has shared in many countries and for many years, but that a resolute attempt should be made to make it Indian in fact as in name. Fifteen years ago, when the Islington Commission swept away all racial distinctions in the services, and started the process of real Indianization, the Indian Civil Service was Indian only in name, and many were the forebodings as to what would happen if Indians were admitted to it in numbers sufficient to make it Indian in reality after a period of years. The attempt was made, and there has been no catastrophe. What India asks now is that similar steps be taken to Indianize the officer ranks of the Indian army, and that as a pledge of intentions an Indian Sandhurst be set up, and Indian military schools be multiplied to feed it. For the rest, the hope is that, if possible, the risk will be taken of reducing somewhat the present crushing military expenditure so as to set free funds for " nation building " purposes. It is not for this Government to pronounce on the feasibility of translating these aspirations into practice, but it ventures to record its sympathy with them.

17. *Finance.*—At first sight this Government was attracted by Sir Walter Layton's scheme of finance, but has come to modify its views after examining it in detail. The scheme is unduly optimistic in that it makes little or no allowance for wars or political upheavals, or for the vagaries of climate so familiar in India. If the Government of India could hold out hopes that there was any immediate prospect of an early transfer of the proceeds of the salt tax this would make a good foundation to build on, but this Government can hardly believe that this will be the case. It is also distrustful of the excises proposed on tobacco and matches. Even if any legislature could be got to impose them, they would be profitable only when a common policy with the states had been achieved, and this will take a long while to bring about. There are also difficulties of principle and practice in connection with the suggested terminal taxes, which are essentially charges on transit, whilst the proposed tax on agricultural incomes presents obvious difficulties. Sir Walter Layton's comment in paragraph 301 of the report that " Expenditure by the provinces on ' nation building ' services should increase and not diminish the taxable capacity of India " is a pious hope, on which it would not be safe to rely, while his dictum in the same paragraph that the Central Government should have no authority to prevent particular classes of taxation from rising beyond a certain level is one which this Government would prefer to have endorsed by the Government of India before trusting too much to it. At the same time, whilst it doubts whether any early or striking financial advantage will accrue to the provinces from the actual proposals made, it approves generally of the idea put forward for the central collection and subsequent distribution of funds, particularly as the scheme could be fitted

without much difficulty into almost any form of probable constitution for India, even into that which exists at present. Its views on the other matters dealt with in Sir Walter Layton's report are—

(i) that the Governor General in Council should retain complete control over provincial borrowing as at present and as recommended by the Commission in paragraph 189 of their Report;

(ii) that no great advantage will be served by setting up an inter-provincial finance council to administer the loans fund as suggested by Sir Walter Layton in paragraph 305 of the report, and this may remain in the hands of the Government of India, Finance Department, as at present;

(iii) that audit should remain in the hands of the Central Government, as at present, and as recommended by the Commission in paragraphs 189 and 312 of the Report; and

(iv) that provincial revenues and balances should remain in the custody of the Government of India, as at present, and that the powers conferred by Devolution Rules 16 and 21 should be retained in the new constitution.

18. There remains to deal with a few other points of a financial character. The first relates to the Finance Department, the position of which under the Commission's scheme is rather obscure. This Government feels that there should be no weakening of treasury control over expenditure, and that the convention, which now exists, that the advice of the Finance Department will not be rejected except for strong reasons, should, if anything, be strengthened. To this end it would confer on the Governor the power to frame rules for the Finance Department on the lines of those in Part III of the Devolution Rules. The Governor should also have power to authorize such expenditure as, in his opinion, may be necessary for the safety or tranquillity of the province, or for the carrying on of any department. Such a power will be useful not only at a time like the present, but during the long intervals during which the legislature normally is not, and for reasons of climate often cannot be, in session. The Governor should also have exclusive power to initiate expenditure, or measures affecting the public revenues or imposing any charge on those revenues, in the manner laid down in sections 72-D (2) (*c*) and 80-C of the present Government of India Act. He should also have authority to secure the disbursement of non-voted charges. These charges should be tabulated with care, and in view of the duties to be allotted to the Governor should include all expenditure connected with himself and his staff and his residences, establishment and contingencies.

19. *The Services: Recruitment.*—This Government is agreed that no special consideration in the matter of recruitment is needed in the case of the Irrigation and Forest services. They should become provincial services. There is some difference of opinion about the Indian Civil Service and the Police. One view is that all

European recruitment should cease from the date on which the new constitution comes into force, and that any new All-India recruitment should be made in India under the orders of the Government of India. That there is much Indian opinion in favour of this development is certain, and the view is also held by many members of the services themselves. On the other hand sudden changes are risky, whilst there are obvious advantages, particularly until the Indianisation of the Indian army has progressed further, in keeping up a certain flow of Europeans into the Indian Civil Service and the Police. In the circumstances this Government advises that, as a transitional measure, European recruitment be maintained on the Lee Commission basis, and that the Secretary of State continues to regulate it as before; but that, so soon as the Lee Commission's percentages have been reached, the whole matter be reconsidered. As a matter of fact owing to various causes the Lee Commission stages are likely to be arrived at sooner than was expected.

20. *The Services: Safeguards.*—This Government accepts the proposals of the Commission with respect to the officers of the existing All-India Services. Their rights and prospects should be safeguarded fully. How this can best be done will be a matter for careful drafting when the new Act and rules come to be taken up, and this Government suggests that then, or at the time of the Conference, a committee of representatives of the services should be formed and consulted. In this province, where the Legislative Council has always shown a bias against the retention of administrative posts, such as Commissionerships or Superintending Engineerships, the services are apprehensive lest their prospects be endangered, so soon as power passes to a ministry responsible to the legislature. This Government has never admitted that, when a specific post is abolished on grounds of administrative convenience, a claim for compensation arises. The addition or abolition of isolated posts in a cadre is part of the luck of the service, and the plus and minus quantities as a rule cancel out over a period of years. But, where sweeping changes in the machinery of a service are made, it seems equitable that the officers affected should be provided with a career as nearly as possible equivalent to that in vogue when they were recruited, and this matter deserves consideration when the safeguards come to be drawn up.

21. *High Courts.*—This Government accepts in principle the proposals of the Commission relating to High Courts. For the purposes of this province there should be power to set up a High Court by executive action. Power should also be taken to fix the salary of the Governor at a rate which will bear a suitable relation to that of the Chief Justice, if and when a High Court is constituted. Hitherto the statutory limits placed on the salaries of the Governor and Members of Council have blocked proposals for the institution of a High Court.

22. *Conclusion.*—In conclusion I am to say that it must not be assumed that the views expressed in the foregoing paragraphs are held necessarily by each and every member of the Government. Constitution making is a subject on which individual views can be and are held in great variety, and the members of this Government do not claim that they form an exception to this rule. It would be wearisome if the opinions of each member were given in detail on each point. In the circumstances what has been sought in this letter has been to steer a middle course, such as all the members would be ready to accept, if necessary, but not in all respects to advocate. The Indian members, the Honourable Mr. Tambe, Home Member, and the Honourable Rai Bahadur Bose, at the moment the sole Minister, swing naturally to the left. For example, they would curtail the Governor's powers more closely, would confine him to the choice of a Chief Minister, leaving it to the Chief Minister to select his colleagues, and would like a fuller measure of responsibility at the centre. They would also like to see European recruitment ended sooner than has been proposed above, and would transfer to the Government of India the control over the services now vested in the Secretary of State. They are also opposed strongly to any form of separate electorates, and are against any further creation of classes such as the jungle people, or weightage for big landowners. They would also prefer to have it laid down that appointments to judgeships of High Courts should be made in future mostly, if not wholly, from the bar. On the other hand, the Honourable Sir Arthur Nelson, the Revenue and Finance Member, is inclined to the more cautious view. Amongst other things he would prefer that there should be an official member in the Governor's cabinet, and would make statutory provision accordingly. He is also so impressed by the advantages which would accrue financially to the provinces from a federal system that he would like to keep the Commission's scheme for a Legislative Assembly federally constituted on a basis of indirect election. His Excellency the Governor desires to make no reservations.

ASSAM GOVERNMENT.

From the Officer on Special Duty, Reforms Branch, Government of Assam, to the Joint Secretary to the Government of India, Reforms Office, No. Rfm. 8/8801, A.P., dated Shillong, the 12th August, 1930.

I am directed to refer to your letter No. F.-67/30-R. of the 24th June, 1930, and to communicate the views of the Government of Assam on the Report of the Indian Statutory Commission.

The Government of Assam have been unable to examine the Report in detail in consultation with the district officers or leading members of the public, but have endeavoured to visualise the translation into actual practice of the Commission's recommendations, to see how far they would meet the requirements of this province, and with what chance of success. They feel that, whatever the constitution may be, it must depend for its successful working upon the reception it obtains from those persons who will be entrusted with the administration, more especially the members of the Legislative Council.

2. I am to add that the criticisms and suggestions of this Government are for the most part confined to those portions of the report which relate to the Provincial Government.

Mechanism of Advance.

3. *Part I—Chapter* 2.—The Commission have first laid down certain abstract principles, which require to be dealt with somewhat fully, since they affect the fundamental conceptions of the Report. Briefly re-stated they are :—

(1) that the new constitution should, as far as possible, contain within itself provision for its own development,

(2) that it should not be too rigid, but should allow for natural growth and diversity, as the result of practical experience,

(3) that no attempt should be made to lay down the length or the number of stages of the journey.

No exception can be taken to the first proposition, for this Government are agreed that it is impossible at once to bring into force whatever may be conceived as the final form of the Government either of All-India or the provinces. Examination of the other two has however resulted in a complete divergence of opinion.

It is clear that there must at least be, as now, a written constitution. The first question is how far the statute should contain detailed provisions of a fundamental nature, how far it should provide for similar prescriptions in rules which could be modified by superior authority with more freedom than would be permissible

for a fundamental change, and how far it should leave the procedure of Government to develop by convention and compromise.

The second question concerns the authority and the procedure by which those details of the system which are susceptible of modification without destroying the frame, and which have not been left to convention and compromise, may be brought under revision and reconstruction. The answer to this question will clearly depend upon the answer given to the first.

As a matter of principle it would appear desirable, in view of the Indian habit of thought, to define as accurately as possible the powers and relations of the various parts of Government. There are gaps even in the present rigid code, which can lead to an *impasse*, for instance, between the legislature and the executive. On the other hand there are manifest disadvantages in too great a rigidity. Imposed in present conditions, such a code could not be fully satisfactory to those who yearn for advance, and it appears to this Government that the dissatisfaction will not be much affected whether a time limit is or is not set down. Again, there are very concrete differences in the economic circumstances of the provinces which would render it undesirable to force them into a common mould, and there are obvious difficulties, which the Commission recognise, in now laying down precisely the frame of the All-India Government. Finally a rigid constitution must probably entail the ordering of matters by an external authority which should preferably be decided by the people of the province for themselves.

4. To come from theory to practice, the Commission's scheme is criticised as being too vague and leaving too much to the future to settle. In the provincial sphere, for instance, it is thought by some that it would be possible virtually to continue thereunder the system of dyarchy, or even to introduce " reactionary " administration. It would be equally possible to develop at once a fully responsible system of parliamentary government. All depends, from the one point of view, upon the way in which the Governor uses his wide powers or allows them to lapse; from another, upon the spirit of accommodation and compromise displayed by the Council and Ministers, whether the aim of the Council will be to prevent resort to the safeguards or to force their use.

His Excellency and the Finance Member consider that one danger of the elasticity proposed by the Commission is that a determined attempt might be made from the beginning to achieve the furthest limit of advance. The Commission recognize this danger as one inevitable to a system to which a time limit has been set; but it appears equally inherent in a principle of flexibility. Until it comes to be recognized that authority is seated in the people themselves, the retention of essential safeguards in external hands may be esteemed a challenge. An elastic constitution should minimize the inevitable conflict and furnish opportunity for compromise, if there is anything like a proper spirit of co-operation. If

there is none, it will only increase the temptation to abuse the facilities for change. They fear that under present conditions suspicion will prevail over confidence and there will not be " the general understanding that the powers," explicit or implicit in the constitution, " will be used in moderation " (paragraph 9). They nevertheless are prepared to accept the general scheme, and consider that it does—in fact as well as in theory—afford a great opportunity for the people of the province to achieve self-government with the minimum of dislocation.

The Judicial Member and Ministers however, viewing matters from a different angle, lay more stress upon the need of defining the stages of advance. They are anxious to have any doubt that advance is to be real and progressive dispelled. They would therefore like to see the powers of the various authorities rigidly laid down, and a procedure outlined, either by Parliamentary enquiry or on the initiative of the Indian people, with such limitations of time as may be deemed necessary, whereby all restrictions upon the popular legislatures and Ministers may be progressively removed.

The need for safeguards.

5. *Part I—Chapter* 5.—As to the need for safeguards the Government of Assam are agreed. No member of Government is prepared to advocate a leap in the dark or a complete breach of continuity in administration, which the absence of safeguards would mean, even in the provincial field. It must be pointed out that the nature of the matters requiring to be safeguarded has an important bearing upon the general question which has been discussed. If for instance the protection of minorities is to devolve upon the Governor of a province in exercise of his discretionary powers, it may be necessary to look forward to a time when such a Governor may himself belong either to a majority or a minority (instead of a foreign and neutral) community, and to consider whether the constitutional framework admits of adjustment to such a change in circumstances.

What the safeguards should be is discussed later.

The Boundaries Commission.

6. *Part II—Chapter* 1—*Paragraph* 38.—The Government of Assam support the appointment of a Boundaries Commission to determine the future of Sind and Orissa. They also suggest that in view of the Commission's recommendations for the separation of Burma it may be found desirable by the Government of India to raise the question of a boundary between India and Burma. For considerable distances an inter-provincial boundary has already been fixed by agreement between the Governments of Burma and Assam in those parts where there is an intervening area of unadministered territory; but the boundary north of the Hukawng valley has been

the subject of conflicting views. The boundary throughout will now, if the Commission's proposals are accepted, require to be considered in an entirely new light, and the Central Government, which conveyed in the Foreign and Political Department telegram No. 2874S. of the 24th of September, 1929, to the Government of Burma, this Government's views that the fixation of a boundary in the Hukawng area should be postponed pending decision of the Statutory Commission, will probably desire, especially in view of future arrangements for the defence of the North-East Frontier, to have the whole question thoroughly investigated. It might be convenient, if a Boundaries Commission is set up, for that body to make the necessary enquiry.

The Assam Government wish to make it clear that they would not recommend the grant to this Commission of anything in the nature of a roving authority; its enquiries should in their view be limited to the specified areas. They share the view of the Commission that "it is manifestly impossible for us to recommend a redrawing of the map of India according to some new pattern."

The question of the Burma-India boundary is closely connected with the administration of the present backward tracts, and further reference will be made in considering the latter to a possible readjustment of the provincial boundaries of Assam.

The Provincial Executive.

7. *Paragraphs* 46 *and* 48.—The Government of Assam are unanimous that the Provincial Executive should be unitary and jointly responsible to the Council. There should, in fact, be no distinction in the administration of subjects, and the activity of both executive and legislative authorities should extend over the whole provincial field. They are also agreed that the members of the Cabinet should be not less than four, and this, with the emoluments of office, should be provided in a schedule to the Act which should not be altered until after ten years have elapsed. The Ministers, they think, should all be chosen from the elected members of the Legislative Council. An official Minister will be in an even worse position that that of an Executive Councillor under the present régime. He will be a target for attack in the Legislative Council and his presence in the Cabinet may cause friction and embarrassment to the elected Ministers. It appears almost a matter of necessity that after a defeat of the Ministry any official Minister should be appointed a member of its successor. If indeed this were not done, the official's career would be seriously prejudiced. The Home Department letter No. F.-58/30 Estts. of the 6th of February, 1930, contains an opinion of the Secretary of State that it would be contrary to the public interest if a person who had held His Majesty's Warrant of appointment as a member of an Indian Government should revert to the service of the Crown in India in an inferior capacity. It is supposed that official Ministers would

hardly be of lower standing than that of Executive Councillors and that the same consideration must apply in their case. If, however, an official Minister were reappointed after defeat of a Ministry it is only too probable that a vote of censure would be at once recorded merely on this ground, when in virtue of their joint responsibility the whole Ministry must fall. Repetition of this procedure would rapidly produce a deadlock. In fact, not only is it a breach of logic to create a jointly responsible executive wherein responsibility does not entail the same results for every member, but it will also be considered a slur on the capacity of the elected members. It is represented that an official cannot be expected to feel the same responsibility as his fellows, while his administration of his department may invite hostile criticism.

The Government of Assam do not therefore consider that there is a place for official Ministers in this province. They realise that a risk is being taken in any case and consider it preferable to take the whole risk, in order that the constitution may be more acceptable. It is true that the Report merely gives the permissive power, and that in some provinces for a period the presence of an official might be welcomed by other members of the Cabinet. But the retention of the power by the Governor is, in the opinion of the Assam Government, likely to be misunderstood and to engender suspicion detrimental to the acceptance and working of the new constitution.

The Finance Member however considers that restriction to the elected members of the Council might unduly limit the field of selection. As in the British Cabinet a Minister may be drawn from the House of Lords or made a Peer for the special purpose, so he would propose that it should be open to the Governor, in framing his Ministry, to take a non-official of standing from outside the Council with whom the elected Ministers were willing to work.

The Government of Assam wish to repeat their recommendation that a Financial Adviser should be appointed. He would be the permanent head of the Civil Service, outside both Cabinet and Council. His Excellency wishes to make it clear that he regards the existence of a Financial Adviser of high standing as a necessary condition for the establishment of a fully responsible Cabinet, and it is only on the understanding that such an appointment would be guaranteed that he himself would be prepared to recommend for Assam the appointment of a Ministry entirely drawn from the Legislative Council.

As the nature of the post may be liable to misunderstanding it is desirable to define clearly the functions which this official would perform, and the reasons for which his appointment is urged. It is clearly necessary in the interests of the new popular Ministries to secure the maintenance of efficient Treasury control, and to provide expert advice on revenue and financial matters to individual members of the Cabinet or the Cabinet as a whole. In order moreover to ensure that the Governor could rely on administrative experience of a high order in the event of a break-down, and to secure

the efficient running of the permanent Civil Service, it is highly desirable that an official of standing approximately equal to that of the present official members of Government should be available. It may even be that in the event of the unexpected absence from duty of the Governor it would be difficult to appoint one of the Ministers to discharge his duties without precipitating an awkward situation in the Ministry, and in such a case it would be convenient that the Governor's functions should be temporarily carried on by an official of adequate standing. His Excellency and the Finance Member consider that in Assam the Financial Adviser might also function as Chairman of the Public Service Commission. He would not be the head of any department, but would advise Ministers on their request in respect of all departments, and the Governor could direct that his advice should be obtained on any particular case. His ordinary duties would be laid down in or under the statute, and would correspond to the consultative powers of the Finance Department under the present Devolution Rules, exclusive of the administrative powers, such as that of re-appropriation. The only power he would exercise, save as the servant of the Cabinet, would be that of requiring that any case, whether one on which his advice was accepted or not, should be placed before the Cabinet as a whole, and that any objection to expenditure should be placed before the Public Accounts Committee. He would in effect fulfil the same office for the Ministry as the Permanent Secretary to the Treasury does for the Cabinet in England, and should provide continuity in financial affairs. There is every chance that in the earlier stages changes of Ministers may be inconveniently frequent, and the newly-appointed Ministers must, as in the United Kingdom, rely on the permanent civil service.

8. *Paragraph* 46.—The fixation of Ministers' salaries has been so frequent a source of anxiety that the future arrangements on this point require careful consideration. Although the Council should be given a reasonable voice in the matter, the Assam Government would recommend that the salaries, as well as the number of offices, should be fixed in a schedule to the Government of India Act, and should be alterable by provincial legislation only after the lapse of ten years. They consider also that pensions for Ministers, at the rate of Rs. 100 per mensem for each completed year of service, should similarly be laid down. As regards the amount of salaries there are differences of opinion which have been recorded in the provincial memoranda. The proposal that the only vote of censure to be recognised should be one against the Ministry as a whole must command assent, and there appears to be no objection to a definite provision in the Statute to this effect.

It is appreciated that the abolition of the official *bloc* from the Legislative Council may result in inconvenience to Ministers themselves. The appointment of minor Ministers or Under-Secretaries would however present peculiar difficulties in Assam. Apart from

the question of expense, few legislators are permanently resident at headquarters, and the sense of party discipline is little developed. The Government of Assam doubt whether the Commission's suggestion would afford Ministers any real assistance and prefer that the appointment should remain permissive, as now, in section 52 (4) of the Government of India Act.

9. *Paragraph* 50.—The over-riding powers of the Governor present, as the Commission state, a vital question. The Government of Assam are agreed as to the need of such discretionary powers in the first instance. They have anxiously considered the five points defined by the Commission, and while they recognise that the powers to override the orders of Ministers and thereby impair their responsibility must provoke criticism, and may result, to judge from past experience, in a determined effort to make the Governor use his powers of veto, certification and the like, they have not found it possible to propose any modification.

It is in this matter above all that the dilemma between rigidity and flexibility particularly arises. The Commission's five points are stated in wide terms, so wide indeed that the first might almost be held to include the others, and to furnish a fulcrum for use of the power of interference in a great variety of circumstances.

Unless it is recognised that such powers must inevitably be exercised with the utmost care and indeed with reluctance, unless there is that sense of accommodation and compromise indispensable to the working of any democratic constitution, it will be easy for a Legislative Council to force the Governor into the embarrassing position referred to by the Commission in paragraph 56 and thereby prove that the system is a negation of responsibility and unworkable. Under such conditions the position of a Governor, anxious to let an experienced Council develop its enthusiasms untrammelled, but bearing alone the heavy weight of responsibilities thus proposed to be placed upon him, would rapidly become unbearable. The absence of any indication that pretermission would be imposed by some direction from above, by some period in time, or by some constitutional process may engender a feeling that the province is condemned for an unlimited period to arbitrary as opposed to responsible Government.

These considerations lead the Judicial Member and the Ministers to wish that the Governor's powers could be more closely circumscribed. They are not however prepared to advocate any alternative formulæ, nor to challenge the likelihood of need for any of the five items. While therefore they would welcome an attempt to define more strictly the occasions for legitimate interference, they fall back upon a desire that a procedure should be devised, and reduced to statutory form, for eventual elimination of the discretionary powers, under whatever conditions as to the period to elapse between stages of advance to complete responsibility, the conditions

requisite for the initiation of changes and preliminary enquiry as may be found desirable.

His Excellency and the Finance Member on the other hand, though they are conscious of the weight of the objections, and of the fact that the manner in which British representative institutions have developed elsewhere may not be equally suitable to the circumstances of India, would prefer with the Commission that it should be left to the passage of time to formulate conventions, or allow these powers to fall into desuetude with the growth of experience.

10. *Paragraphs* 51-52.—The system of consultation in Cabinet has been in force in this province generally since 1921. The Government of Assam agree that the business rules should continue to be framed by the Governor. They do not desire to see any rigidity introduced into the executive procedure, and therefore entirely agree with the Commission that there should be no statutory provision in regard to the settlement of differences in the Cabinet.

As a picture of the normal course of business it may be indicated that important papers and any question on which there was a difference of opinion in the Cabinet would be circulated to Ministers and to the Governor. Any member of the Government also might require as a condition of joint responsibility that a particular case, either in his own or another department, should be placed before a Cabinet meeting for discussion. At meetings when important matters were to be discussed the Governor would ordinarily himself elect to preside. In his absence that Minister would preside whom he had directed. It should be clearly recognized that the Governor would in no way be responsible for the decision of the Cabinet and would not, for example, be expected to give a casting vote in event of a difference of opinion. The Government of Assam are unanimous that a special Secretary to the Cabinet is not required. Following the existing practice the Chief Secretary would perform such secretariat functions as the Cabinet might desire, and any other Secretary might be called upon to attend with the papers in his departments. A formal record of the proceedings of Government has always been maintained.

11. *Paragraph* 53.—It may be stated here that the Government of Assam accept the proposals of the Commission regarding the Governor's powers of intervention in finance and legislation. It appears to them that these powers must naturally be strictly parallel to his powers of interference in the executive field.

12. *Paragraphs* 54-56.—The Commission's picture of the Governor's role is generally accepted, though it must be pointed out that for the present he cannot hope to obtain any evidence from a general election of the state of feeling in the electorate. The Commission have indeed in paragraph 213 of their first volume correctly assessed the value of an electoral appeal. For some time to come it must be expected that the elected members will be grouped

by considerations of rank, personality, community or locality, rather than on those of policy or political views. It is possible that an individual of outstanding attainment might command such a following as to enable him virtually to make his own terms as to the constitution of the executive. It is also possible that the only party adhering to any definite political programme, viz., the Congress party, might be returned in such numbers that the Governor would feel himself required to offer it the Ministry with or without such terms as could be arranged for the representation of various sections of the public. It is probable however that for some time to come there will be a number of groups representing divergent interests and of varying strength, none of which will command by itself sufficient support to carry out a declared policy. The Judicial Member and the Minister of Education indeed would like to see recognised in the constitution the necessity of offering a chance of participation to the more important groups, if any ordered policy is to be assured of success. The Government as a whole however are unable to devise any form of words by which such provision could be made in the statute. To admit one or more claims to recognition in the constitution of the Cabinet while rejecting others would probably clash with the principle of joint responsibility, and might provoke claims which could not be satisfied. The Government of Assam recognize that the election of Ministers by the Legislative Council is under present conditions impracticable, and therefore that a system of proportional representation in the Cabinet must be ruled out.

For similar reasons it is considered that the appointment of a Chief Minister would not ordinarily be possible, however desirable it might be for the assistance of the Governor, and for the province of Assam it would not, under present conditions, be practicable. The Government of Assam note that the power proposed by the Commission is permissive, and that no definite statutory provision for the appointment of a Chief Minister will be made in the constitution. It is anticipated that the formation of a Ministry will ordinarily entail consultation with a number of members, before four willing to undertake joint responsibility, and commanding sufficient support in the Council, can be assembled. The position is well described in paragraph 55 of Volume II. To complete the picture, it is anticipated that on defeat of the Ministry by a duly passed vote of censure in the legislature, or in the event of acute and incurable differences arising in the Cabinet, it must be open to the Governor to reconstruct the Cabinet as an alternative to dismissal. It need not be feared that the realisation in practice of joint responsibility will present serious difficulties, given good feeling and a desire to work the constitution. The danger lies in the possible existence of a party bent upon making the position of the Governor impossible. It can only be hoped with the Commission that the opinion of a substantial section of the public will rally

to his support when measures have to be taken for the preservation of peace or protection of minorities. It could be wished that there were more tangible grounds for their optimism in the experience of the past.

13. *Paragraphs* 57-63.—The Government of Assam are prepared to accept the Commission's conclusions as to the administration of law and order, though in their opinion it cannot be expected that this great step in self-government will result in any immediate change in the tenor of public feeling. Tradition is too strong, and the time will not come yet awhile when it may be no longer possible to "represent, or to misrepresent, the agents of authority, who are so faithfully supplying this first need of civilised existence, as the minions of an alien bureaucracy." That this step involves a risk is evident; but as stated in chapter V, paragraph 17, of this Government's memorandum submitted to the Commission the recognition of this undoubted danger does not imply mistrust of the members of the Cabinet so much as fear of the legislature, which the prospect of an enlarged Council elected on an extended franchise does not remove.

14. *Paragraph* 65.—The Government of Assam agree that provision should be made on the lines suggested for the action to be taken in the event of break-down. They are doubtful if the retention of the Legislative Council *in esse* would in such circumstances serve any useful purpose, and would not rather tend to exacerbate feeling. The declaration of a state of emergency presupposes indeed that the formation of a Ministry responsible to the Council and capable of carrying on the administration has proved impossible, and that the legislature therefore has been found unable or unwilling to act. On the other hand it is most desirable that such a drastic step should not be taken until all efforts to produce a settlement have been exhausted. It is therefore recommended that the elements constituting a state of emergency should be defined in the statute. It might be laid down that such a state may be declared when all possible attempts to carry on the administration in accordance with the constitution have been made and have been frustrated. It could provide that the Governor shall not ordinarily take such a step until, after two dissolutions and general elections of the legislative council, he still finds it impossible to form a Ministry willing to act, and commanding sufficient support in the Council. In such circumstances the Government of Assam consider that the Governor should again dissolve the legislature and keep it in suspense for the remainder of its normal life-time, subject to a maximum of three years, without reference to Parliament.

The Provincial Legislature.

15. *Part II—Chapter* 2—*Paragraph* 67.—The Government of Assam have already recommended that the term of a Council should

be extended to five years. They have considered the Commission's proposals in this paragraph and in paragraph 135. They are unable to perceive any but academic objection to the election of members to the Federal Assembly by a Council of a number of years' standing. It is not apparently intended that the federal representatives should be changed with every change in the provincial council. It is quite possible that dissolution will be comparatively common in the latter, and if the principle be accepted that the federal representatives, once elected, should continue for the life of the Assembly, it would seem preferable to allow election by a Council of any age rather than require the expense and inconvenience of a fresh general election. No power of extension will therefore be required.

16. *Paragraph* 68.—Some increase in the size of the Legislative Council has already been proposed by this Government, who under the present conditions in the province would not advise any marked increase over the number of seats then suggested. The actual increase and the proportions of seats to be allotted will most conveniently be considered by the Franchise Committee which this Government agree should be set up, by which time the census figures for 1931 may be available. They agree that a reduction in the area of constituencies is much to be desired.

17. *Paragraph* 72.—The Government of Assam accept the conclusion of the Commission regarding the separate representation of Muhammadans. They associate themselves with the hope that the opportunity to effect a settlement afforded by the Round Table Conference will not be lost, and will wholeheartedly welcome any agreement between interested parties. Meanwhile they are satisfied that pending such agreement the maintenance of a separate electorate is the means by which representation of Muhammadans must at present be effected.

18. *Paragraph* 78.—The problem of the " depressed classes ", a term which the Commission have not defined, is of great importance. The present division into Muhammadan and non-Muhammadan constituencies is undeniably clumsy and leads to anomalies in the representation of the communities. It cannot be disputed that certain fairly well differentiated classes, castes and tribes, while included in the general " non-Muhammadan " constituencies, stand little or no chance of returning members truly representative of their interests. The Government of Assam consider that this difficult and complex question, how these can be afforded reasonable opportunity to play their part in the administration, must be left for full examination by the Franchise Committee. At present they wish merely to record their conclusions of a general nature.

The first, to which they have been reluctantly driven, is that the system of reservation proposed by the Commission is impracticable

in Assam, and would indeed defeat its own ends. One objection is that the Governor would have the greatest difficulty in determining the suitability of candidates. There is again the obvious risk that despite any care he might exercise the elected candidate would entirely fail to represent the classes concerned, for it is clear that the caste Hindus could have no interest save to select such persons as would best subserve their own advantage.

The second conclusion, which follows from the first, is that these classes, preferably each of them, should be represented either by separate communal constituencies, or by nomination. Of the alternatives the Government of Assam would prefer the former, if it is practicable. In their view the general constituencies in this province should properly be divided into (*a*) Muhammadan, (*b*) Hindu, (*c*) Other or General. The third of these classes would be intended to include the adherents of other religions who are not, like the Indian Christians, represented in special constituencies. The " others " would be Buddhists, Jains, Parsis and animists, including tribes like Cacharis, Miris and others who reside in the regular districts outside the backward tracts, members of the degraded castes which are outside the pale of Hinduism, and any other persons (like the large population of *ex*-tea garden labourers) who, though nominally Hindus or on the fringe of Hinduism, may on account of their lack of influence choose not to vote with the general body of that community.

It would be incumbent upon any person wishing to secure enrolment as a voter in this class to apply for it himself. The difficult question, how seats can possibly be allotted to such heterogeneous elements, which would appear to require separate treatment *inter se*, must be relegated to the Franchise Committee. It may be that, at any rate for the present, resort to nomination will be found to be the only solution, but the Government of Assam would for obvious reasons prefer to avoid this, if possible.

19. *Paragraph* 81.—The views of the Commission as to the necessity of continuing the separate electorate for Europeans and the desirability of providing adequately for European membership are accepted. There should certainly be representation in the special planting seats proportional to that now in force, two seats being reserved for Indian tea planters. The Government of Assam consider it desirable also to provide a seat for the general European community.

20. *Paragraph* 84.—The proposal that a seat should be allotted to Indian Christians is accepted. It is not indicated by what method it would be filled, but this will no doubt be investigated by the Franchise Committee. If no other means can be devised resort must be had to nomination.

21. *Paragraph* 85.—The views of this Government as to the necessity of continuing separate electorates for Muhammadans,

and the desirability of re-drawing the lines of communal distinction for this province, have been indicated in the foregoing paragraphs 17 and 18. If separate electorates are accorded to the distinct classes now thrown into partnership with the Hindus, they consider that the distribution of seats might throughout India be made on the basis of population. If, however, the general non-Muhammadan electorates are to be maintained, even with reservation of seats, they agree with the Commission's opinion that " weightage " should continue to be given to Muhammadans on the present scale.

22. *Paragraph* 86.—It has been mentioned that the absence of officials from the Council may cause some inconvenience to Ministers. This disadvantage of abolishing the official *bloc* is considered to be outweighed by the fact that, it being no longer possible to represent the Ministry as supported by artificial means against the will of the Council, the sense of responsibility should be developed. It is doubted if any special provision is required for the attendance of officials in Committee, as the standing orders already permit of arrangements to hear expert evidence.

23. *Paragraph* 87.—It is not considered that any provision is required for University representation. The demand for the representation of graduates as such made by the local Council will be sufficiently met if an educational qualification is introduced. The proper place for a University representative would be in a Second Chamber.

24. *Paragraph* 88.—As in the case of the planting seats this Government consider it desirable to give due weight to important interests, and accepting the Commission's view propose that the Commerce and Industry seat should be doubled. One of these seats should be reserved for European concerns and one for Indian. The latter will meet their former recommendation that there should be a seat for Marwaris.

25. *Paragraph* 89.—The Government of Assam agree that labour should be represented, but fear that the method of achieving this purpose will present an almost insuperable problem unless recourse is had to nomination. The matter should be considered by the Franchise Committee.

26. *Paragraph* 90.—It is thought most desirable that the larger landholders should always be represented in the Council, and it had been indicated to the Commission that assured representation would go far to reconcile the Zamindars of Goalpara to retention of that district in Assam. It is true that owners of considerable estates have been elected in the past, and that one or two of those who might be termed greater landholders have succeeded at the polls. It must be doubted, however, whether, as the franchise widens and the awakening of political instincts stimulates the

inevitable conflict of interests between landlord and tenant, landholders will be able to rely upon their influence as in the past. On the other hand, the roll of electors qualified on a sufficiently high standard would be so small that this Government are reluctant to advocate special seats in Assam. The Commission's proposals do not apply to the province, as no seat is now reserved. It is considered that the power of nomination should be used to ensure that adequate representation is obtained by landed interests, if it has not been obtained at the polls.

27. *Paragraph* 91.—It is agreed that no provision is necessary for women : indeed, it is regretted that the type of lady who would be willing to sit upon the Council, and capable of securing the confidence of her sex for the advancement of social causes, would not be easy to obtain.

28. *Paragraph* 92.—This Government agree that it will be necessary to maintain a power of nomination in order to secure so far as possible the representation of those interests for which it may be impossible to arrange a satisfactory electoral system or which may fail to secure election, such as landholders, Indian Christians, Nepalese, women, and labour. The number should be restricted to a maximum of ten *per centum* of the membership; but this proportion must be exceeded if the separate electorates mentioned in paragraph 18 above cannot be provided for the depressed or backward classes and primitive tribes. It would in their opinion be desirable to devise a system by which nomination must compulsorily be abandoned as soon as an electoral scheme can be devised for the special interests.

29. *Paragraphs* 94-95.—It is clear that some provision must be made for the adjustment of seats in the Council as circumstances alter, and in view of the fact that this province is in process of rapid development and change, it is considered that a means of effecting such adjustments should be available after every census. Changes may also be required in the other two matters mentioned by the Commission, of which the last item (*c*) will be of special importance. The actual means, however, present many difficulties. It is agreed that the constitution should not require or permit a change to be made as the result of a " snap " vote, but the procedure suggested by the Commission appears both complicated and impracticable. It may in the first place be a matter of doubt which communities are affected by the proposed change. If for instance a question arises of increasing the number of Muhammadan seats, it is clear that in a sense not only the Muhammadan but every other community is affected. If a two-thirds majority of the whole Council is required to carry a constitutional resolution, a mere section of one party might by adverse vote, or in some cases by mere abstention, permanently bar proposals, however strongly justified, for the benefit of another party. A majority party could not, it is true, probably carry a resolution in its own

interests without affecting the interests of one community or another, but circumstances might arise in which the Governor, though satisfied that a resolution was susceptible to grave objection, might find it extremely difficult to refuse certification. He could not at least refuse to certify a resolution passed by a majority of two-thirds of the Council on the ground that it did not represent the general opinion of the province, or responsibility would be a mere fiction. The advocates of rigidity in the constitution point out that though appearing to aim at flexibility the process may result in the most extreme rigidity. Various solutions have been proposed, but none appears to have any merit above that which at present exists in the power to amend the Electoral Rules. Neither amendment by the provincial Council after the model of rules 5 and 7 of the Assam Electoral Rules, which would risk " snap " votes, nor amendment by the Federal Assembly, which would involve an undesirable interference in provincial affairs by the Central Government, appears desirable. In the absence of a Second Chamber therefore the Government of Assam consider that amendment by the Secretary of State or the Secretary of State in Council would be most suitable. It is supposed that duly considered proposals with strong grounds in justification would be approved as a matter of course. To ensure this authoritative character the Government of Assam propose that, on the analogy of Section 80C of the Government of India Act, a constitutional resolution should only be proposed by the local Government. Under this sponsorship it would have the weight of full justification and should be assured of adequate support in the Council. The resolution should only require to be passed by a majority of the members present at the meeting. but for the modification of any concession explicitly guaranteed to any community in the constitution the majority must include two-thirds of the total members of that community. In a case of any other kind it might, if necessary, be enacted that the Governor-General in Council should be empowered to call for further enquiry on his own initiative, or that of the Secretary of State, to prevent unfair decisions of a majority party from going through unchallenged.

30. *Paragraphs* 96-98.—The Commission's views on the distribution of functions between the Central and Provincial Governments and the Governor's powers in legislation and finance are accepted. It is clear that the powers in legislation and finance must run parallel with those in the executive field. The responsibility placed on the Governor for the prevention of measures which may endanger public security or threaten the right of a minority, even in opposition to his Council, e.g., if it were necessary to implement an existing guarantee affecting a minority, will clearly impose a burden which he should properly share with his Cabinet, if reliance could be placed on the immediate development of that robust control over the legislature which is a feature of the Parliamentary

system where it works best, or with a Second Chamber, if it were now possible to create such a body. The Assam Government would welcome the insertion in the constitution, as was done in those framed after the War, of provisions which would define more distinctly the maintenance, by the Governor, of certain fundamental rights, particularly declared as the basis of the constitution. The Commission's views in paragraph 156 must therefore be accepted unless a draft of written safeguards, satisfactory in all respects, can be provided. It should not be impossible to draft "fundamental clauses" for a constitution: the difficulty lies in the provision for their effective enforcement. As between the Governor or the Courts the former is regarded as the more satisfactory custodian of the rights of minorities.

It is agreed that those classes of expenditure which are now non-votable should so remain. It is the view of His Excellency and the Finance Member that in this matter, as also in regard to the use of discretionary powers and the control of the Central Government, there will be a gradual concentration of power with the provincial legislature naturally following upon the growth within it of a sense of responsibility and a grasp of the principles of ordered government. As the local legislature proves itself capable and learns to exercise its power with circumspection there will be less cause for interference by the Governor, and the longer the period during which it has not been necessary for him to interfere, the more difficult will it be for him to intervene, even if he so wishes, save in matters of the gravest importance and necessity. Similarly the intervention of the Central Government will, it is anticipated, gradually cease to recur, as control of finance by the legislature strengthens, and the non-votable items will disappear. In some cases they will disappear automatically with the withdrawal of services appointed by the Secretary of State. This Government have however proposed that there should be certain additions in respect of the salaries and pensions of Ministers to the non-voted list, and it is possible that the need may arise for further additions after the model of the Consolidated Fund Charges in England.

The franchise.

31. *Part II—Chapter* 3.—The Government of Assam are agreed that immediate adult franchise is impracticable. They consider however that this must ultimately be the logical outcome of the present system, and the possibility of some extension now should be investigated by the Franchise Committee which the Commission propose. The suggestion that a qualification on educational attainments should be added to the list is accepted. This should be the possession of a certificate that the applicant has completed at least the middle school stage whether in a high, middle English, middle

vernacular or other middle school or madrassa. It is not thought that any lower qualification would have any real virtue.

32. *Paragraph* 108.—The grant of votes to women without respect to the property qualification is a matter upon which the members of Government think differently. His Excellency and the Minister of Local Self-Government consider that there is no reason for refusing a vote to the wife or widow. They would however restrict the exercise of the franchise whether by a male or female to those of the age of 25 years. The Finance and Judicial Members and the Minister for Education consider that in Indian social conditions the vote of a wife would serve merely to duplicate her husband's, nor do they see sufficient reason to grant the wife or widow a vote, irrespective of the property qualification, any more than to a man. They would therefore grant votes to those women only who possess the ordinary qualifications. The Finance Member also considers that the vote of both men and women should be restricted to those above 25 years of age.

33. *Paragraph* 109.—It is not considered necessary or desirable to appoint a further Franchise Committee after 15 years. A modification of the Commission's proposal regarding the " constitutional resolution " has already been proposed in paragraph 29 above, and it is considered that this should suffice. The Minister for Education however would support the appointment of a Committee as a part of the future enquiries which he desires should take place.

34. *Paragraph* 110.—The time is not considered ripe for the fixation of a maximum limit of expenditure by candidates for election. The information available as to what expenditure is really necessary for an election in any of the various constituencies is still inadequate. The Commission allude to this matter in paragraph 205 of Volume I. The average area of a rural constituency in Assam is over 1,600 square miles, as against 220 square miles in England. They vary between 287 square miles with 2,867 voters and 7,645 square miles with 3,293. The largest number of voters is 16,425. The large size and comparatively small number of voters must necessarily increase expenditure *per capita*. In point of fact however the figures of expenditure returned vary in the most inconsequent way. While as much as Rs.7,529 has been spent by a single candidate, in many cases the amount is under Rs.100. An important point to notice, as the Commission have shown in paragraphs 213 and 217 in Volume I, is that the need for improving contact with the electorate is insistent. The task of educating a mainly illiterate electorate requiring the personal appeal over the huge areas with indifferent communications necessitates, if it is to be done properly, the employment of large numbers of agents and considerable expense. In most cases this task is still not undertaken, and until some idea of the average can be reached it would be unsafe to prescribe maxima.

The Second Chamber.

35. *Part II—Chapter* 4.—His Excellency and the other Members of Government, excepting the Minister of Education, are satisfied that it would not be practicable to create at the present time a Second Chamber which would not be merely a reflection of the Council and deplete the resources of suitable candidates for the latter. The judicial Member and the Minister for Local Self-Government indeed would oppose a Second Chamber on principle, but the other members of Government consider that it would close more satisfactorily than any other device a number of gaps in the constitution which without it can only be covered by means which unavoidably provoke suspicion.

36. *Paragraph* 117.—It is not considered that any benefit commensurate with the expense involved would be derived from the expert revising body suggested. All the expert and administrative opinion which is available will have been utilised throughout. Any further expert advice could only be obtained by the employment of professional lawyers.

The Backward Tracts.

37. *Part III—Chapter* 2.—In their recommendations regarding the future of the backward tracts the Commission have touched a subject of great importance for the province of Assam. These tracts cover an area of approximately 22,500 square miles out of the total area of Assam, 53,015 square miles, though the population is only one-tenth of the provincial population. They include the Khasi and Jaintia Hills. The Khasi Hills are in the main a congeries of petty semi-independent States governed by the elected Siems and their Durbars, or by similar functionaries. Though the *sanads* provide for complete subordination to the Government of Assam, the lands in occupation of these States are not British territory. Nearly 150,000 of the people in the Khasi Hills in 1921 were subjects of the Siems and other native rulers; and less than 100,000 were British subjects. The British territory is scattered in small areas intermingled with the States. The Jaintia Hills, a subdivision of the district with headquarters at Jowai, are mainly inhabited by Syntengs and Mikirs, and are British territory. In the middle of the Khasi Hills is Shillong, the capital of the province, consisting approximately of British territory one-fourth, and Siems' territory three-fourths.

The Commission's proposals generally follow those of the local Government. They are that the typically backward tracts should be excluded from the future sphere of the Legislative Council and Ministers, though technically remaining within the province. They are to be administered by the Governor on behalf of the Central Government. The Commission have, however, stated that there is a division of opinion about the Khasi and Jaintia Hills, but have not suggested any means by which a decision may be reached between the divergent views. The Government of Assam have

again carefully considered the whole subject and endeavoured to come to a conclusion whether the recommendations of the Commission afford a satisfactory settlement of this difficult subject. They have had the benefit of a further note by Dr. J. H. Hutton, C.I.E., now Census Commissioner with the Government of India, a copy of whose former note on this subject was presented to the Commission and attached to the provincial memoranda. Dr. Hutton has pointed out certain statements in the Commission's report which are capable of misconstruction and his views are accepted by the Government of Assam as carrying great weight.

In the first place the Commission's intentions appear to have been to secure an efficient and congenial administration for the hill peoples, to prevent their economic subjugation by the more sophisticated people of the plains, to secure that the hill tribes shall not again become the nuisance that they were in the past to the peace of the plains districts, and to prepare them ultimately for some form of parliamentary Government (though the phrase used is merely that they " should be educated to stand on their own feet "), The Government of Assam do not accept the view of the Commission that the hillmen " do not ask for self-determination but for security of land tenure ". In point of fact these tribes have never asked for administration by Government; the hill and frontier areas were occupied merely for the protection of the plains from incursions. Prior to occupation they were populated by numerous village communities with little or no co-ordination *inter se* but with very definite polities, sometimes representing a very intricate organisation, of their own. Under British administration the customary native forms of administration have been maintained as far as possible where they do not conflict with the larger requirements of Government. It must be emphasised that the customs and institutions of the tribes are matters for which much veneration and affection is felt. In other words the demand of these hill tribes is that they should be left alone—certainly a form of self-determination—to frame their immediate government to their own liking, subject to the approval of the King's local representative. That their future development is ideally bound up with education for a parliamentary form of Government or with a prospect of union with the peoples of the plains, who are generally of very different ethnic origins, is an assumption which cannot be safely made at this stage.

The problem of educating the people of these areas, which are some of the most polyglot in the world, and of fostering a tendency towards union for the purposes of self-government, is one so complex that it can only be solved by an administration specially designed for the purpose. This Government agree with the Commission that a self-governing province of Assam cannot be expected to find the funds necessary for meeting the deficit which now exists. It must be admitted that even in the past there has been a tendency for the needs of the remoter areas to be thrust in the background.

The Mikir Hills or the Jowai subdivision, for instance, must be admitted to have been regrettably neglected for more vocal claims upon the slender resources of the province. To the Central Government, however, these tracts represent, like the North-West Frontier, an item in the problem of defence. They are also sources of potential mineral wealth, and central revenues already derive sums which more than cover the total deficit from localities which are, or till recently were, within them. It is also abundantly clear that the areas are not ripe for inclusion in the general provincial scheme, and any attempt to do so must endanger the economic existence and—as so many instances in the spread of civilization show—the very life of these unsophisticated tribesmen. A further ground for separate treatment of the backward tracts which has not been mentioned by the Commission is that it has always been found necessary in the administration of the hill and frontier tribes to employ Europeans and Anglo-Indians, since the Indians of the plains are unfortunately too often regarded as their hereditary foes, and can with difficulty secure trust or obedience.

On all counts therefore the Government of Assam are convinced that the Commission's proposals to exclude the typically backward tracts from the scope of the reforms are wise.

In their paragraph 133, however, the Commission outline a plan for partial exclusion of certain areas, and it remains to consider whether there are any in Assam which should receive such treatment. The Government of Assam have very carefully considered the matter but are unable to support the device of partial exclusion. In involves either (*a*) the anomaly of inclusion in the sphere of the Legislative Council without requiring that Council to spend any funds upon the partially excluded areas or to promote their advantage, or else (*b*) the expenditure of provincial funds upon them without securing full control to the Council. It is confessedly a temporary device, and it leave the future development of the tracts entirely at the caprice of fortune. The Government of Assam, admitting the responsibility of Parliament in the matter, do not consider that this responsibility could be discharged without some more definite organization aiming at the development of the tracts on the lines of self-determination. They, therefore, unanimously propose the exclusion of—

The Naga Hills,
The Lushai Hills,
The North Cachar Hills,
The Mikir Hills,
The Frontier Tracts,

to be administered by the Governor on behalf of the Governor General in Council.

Prima facie, if partial exclusion were feasible for any tract, it would be applicable to the Khasi and Jaintia Hills and the Garo Hills. Some of the people of the former have protested, in papers laid before the Commission, and through the note presented by the

late Minister for Local Self-Government, against the classification of their district as a backward tract, and have demanded that it should be represented in the Council. This Government believe with Dr. Hutton—and they are largely supported by the late Minister's note—that the attitude of the Khasis and Syntengs is really dictated by dislike of the somewhat arbitrary control of the Deputy Commissioner and by a desire to obtain a larger voice in their own affairs. This would emphatically not be obtained by representation in the Council, where their representatives would form an inconsiderable minority.

The position in this district is also vastly complicated by the preponderance of the Khasi States, which despite their peculiar position of subordination can really no more be brought into the provincial scheme without a breach of faith than the Indian States in general (Volume II, paragraph 20 of the Report). His Excellency and the Finance Member have after close consideration been unable to perceive any satisfactory means by which even a modified scheme could be enforced in the isolated patches of British territory scattered among the States, in a manner reconcilable with the conditions subsisting in those States, or which would be more than a fiction of responsible government. The administration of Jowai subdivision must follow that of the Sadr subdivision. As for the station of Shillong, this must of course fall into line with the province as a whole. It is mainly inhabited by foreigners, and the existence in the station of a portion of Siem's territory is not expected to raise any serious difficulty. If it did, a remedy might be found by buying out the sovereignty of the Siem and Durbar. This separation of Shillong would not necessarily entail the disenfranchisement of any voters. His Excellency and the Finance Member would accordingly exclude the Khasi and Jaintia Hills and the Garo Hills district (which owing to its geographical position must go with the former) entirely from the scope of the reforms. They would only retain the present Shillong urban constituency. The Judicial Member and the Ministers would include these two districts.

38. The financial effect, if the Commission's proposal that the excluded areas should be administered at the cost of Central revenues is accepted and applied to all the present " Backward Tracts ", has been again brought under review. The extraction of the relevant figures presents difficulties resulting from the departmental form in which the accounts are now kept, and particularly so in respect of the Khasi and Jaintia Hills, where it is impossible to separate absolutely the headquarters expenditure from that of the district. The figures are being closely examined with reference to the best information obtainable from the accounts of 1929-30, in consultation with the district and departmental authorities concerned. Meanwhile an approximation may be stated for the information of the Government of India. It appears that the additional cost entailed upon Central revenues over the

expenditure now met from Central budget heads would be in the neighbourhood of seven lacs of rupees nett.

The deficit of seven lacs has been obtained on the following calculations. The nett excess of expenditure over receipts in the Lushai, Naga and Garo Hills districts amounts to Trs. 6,95. It is calculated that with the exclusion of receipts and expenditure booked in the Shillong treasury accounts for the purposes of the province as a whole there will be a nett deficit in the Khasi and Jaintia Hills of Trs. 1,15. In the North Cachar Hills, Mikir Hills, and the Sadiya, Balipara and Lakhimpur Frontier Tracts, however, there is a surplus under provincial heads of Trs. 8,93. A large proportion of this sum is derived from forest receipts, and the future of forest administration with the definition of boundaries, will require careful examination. It has been remarked by the Commission that a self-governing province cannot be expected to allot adequate funds to the development of these deficit areas. This remark has, it must be admitted, a retrospective value. The Government of Assam have been for some time exercised over the neglect from which certain outlying areas, especially the Mikir Hills, have suffered in the past, particularly in view of the large Excise and Forest revenue accruing therefrom. The creation of a subdivision for the Mikir Hills is already in contemplation, and it appears probable that for the proper development of the hill areas as a whole the creation of an additional district may be necessary at no distant date. A nett deficit of two and a half lacs is anticipated on this account. In a sense this expenditure on development can be set off against the large revenue, amounting to some six lacs, which is derived from forests mainly on the border between the hill areas and settled plains districts, and which has been taken on the credit side of the account. The following table sets out the financial position of the respective areas for heads at present provincial :—

		Trs.
Lushai Hills	*Minus*	2,60
Naga Hills	*Minus*	3,50
Garo Hills	*Minus*	85
Khasi and Jaintia Hills	*Minus*	1,15
North Cachar and Mikir Hills	*Plus*	5,00
Lakhimpur Frontier Tract	*Plus*	6
Sadiya and Balipara Frontier Tract ...	*Plus*	2,87
Assam Rifles (nett charges borne by provincial revenues)	*Minus*	3,00
Share of overhead charges, pensions, etc.	*Minus*	2,50
Approximate receipts collected in plain districts from lac produced in hill districts	*Plus*	50
Extra cost of an additional district ...	*Minus*	2,25
Total	*Minus*	7,42

39. The Commission also propose in paragraphs 144 and 172 of their Report that members should be nominated for the backward tracts to the Federal Assembly, and that these tracts should be specially administered in the portfolio of a member of the Governor General's Council. While recognizing the logic of finding members in the Assembly for areas which are now to form part, as it is foreseen the Indian States will later do, of the prospective Indian federation, this Government do not perceive how suitable persons to represent the tracts in Assam could be found, unless it is permissible for the present to nominate officials. They are also doubtful if any advantage will be secured by entrusting them to the portfolio of a special member of the Governor-General's Council, who must necessarily find it impossible to obtain any real personal knowledge of the tracts.

40. Mention may be made of an interesting suggestion that the hill districts on the Burma Frontier should be united under one administration, thus securing the unified control of a number of areas similarly constituted and populated, which would otherwise, as things stand, be put asunder by a purely artificial boundary. The idea has attractions from many points of view. In that portion of the boundary which has led to differences of opinion between this Government and the Government of Burma, for instance, there is a tribe, the Rangpang Nagas, dwelling on both sides of the main Patkoi range which the Government of Burma desire to have recognized as the boundary. Wherever the administered or partially administered areas adjoin there are tribes living on both sides with many social and economic points of contact. It is scarcely correct to say, as the Commission do in paragraph 95 of Volume I, that the land frontier of Burma on the Indian side forms a practically impassable barrier. There are indeed at several points easy means of communication from the plains on one side to the other, and throughout there is much interchange between the border tribes. It is possible that the Central Government may desire in connection with the investigation of the future Eastern Frontier to enquire whether it would not at least be desirable to combine with the administration of the backward tracts in Assam that of the Arakan, Chittagong and Pakokku Hill Tracts, the Chin Hills and the area inhabited by the Rangpang Nagas on both sides of the Patkoi. They may wish that the Boundaries Commission should undertake the enquiry. As the Government of India are aware, the administration of the Chittagong Hill Tracts has caused in the past considerable trouble to the Government of Bengal, who were some years back compelled to obtain from this Government the services of an officer with experience in dealing with such areas. The Judicial Member and the Minister for Education note that they do not wish to increase the responsibilities of the Assam Government by any addition to the " backward tracts."

The proposition that a North-East Frontier Province, or at least some unified form of administration for the portions of Assam

and Burma which adjoin, has, as stated above, great attractions. There are distinct advantages in having a single cadre of officials specially trained for definite duties among these tribes. The cost would need investigation, but it should not be much greater than the present cost of separate administrations, for life in these montane areas is not complicated, and the overhead charges should be small.

Failing such a solution it is contemplated that the excluded districts would be administered through officers borrowed from the province, or preferably by separate cadres, where these are large enough for separate recruitment. It is possible that some readjustment of district boundaries within the province of Assam may be desirable, in order to define more clearly the areas of the excluded tracts, but this could presumably be effected in the ordinary way, without reference to the Boundaries Commission.

The Central Legislature.

41. *Part IV, Chapter* 1.—The idea of federation is welcomed by all members of Government and there is no criticism as to the number of members proposed for the Assembly. The ultimate scheme is nebulous, and in the opinion of His Excellency is necessarily so in view of the conditions stated by the Commission in paragraph 20. The Indian members of Government would have liked more definition and particularly an outline of the stages of progress. His Excellency and the Finance Member also support the method of indirect election, which they consider to be preferable to election by large and unwieldy constituencies. The remaining members of Government consider that indirect election must fail to produce men with a feeling that they are responsible to any particular body or represent the province. It is not proper in their opinion that the electors should be deprived of the right of selecting to represent them in the Assembly the men most suitable to discuss the questions which will arise in that body, and made to surrender their judgments to persons they have chosen for a quite different purpose. Nor do they like the step of abolishing the generally preferable method of direct election where it has already been introduced, even if the working is unsatisfactory. They consider also that it is easier to manipulate votes in a Council than in an electorate, and prefer the continuance of the present system of communal electorates in the Central legislature also, pending any settlement of the communal issue by agreement.

All members of Government are satisfied that the allocation of fixed seats is preferable to election by the incalculable method of proportional representation. Allocation of seats has also the merit of avoiding the difficulties involved by bye-elections or the solution of nomination. It must also be pointed out that though theoretically it might be possible for the Council to elect persons not among

its own members, in practice election would be confined to the members of the Council. It would not be convenient, as the Commission seem to have contemplated in paragraph 135, for a person from Assam simultaneously to be a member of the Assembly and of the Provincial Council. The budget sessions coincide and he must necessarily be absent from one or the other.

42. *Paragraphs* 148 & 151.—The Government of Assam agree that the Council of State should be retained and members returned in equal numbers from the major provinces. The election should be on a communal basis and direct, with a high standard of qualification for the voter.

43. *Paragraph* 152.—The Government of Assam observe that there appears to be some inconsistency in the Commission's views with regard to the desirability of bringing all legislative bodies to an end at the same time. In dealing with the Federal Assembly they have adopted an elaborate device, which the Government of Assam consider unnecessary, to ensure that the Federal Assembly should be elected by a Council of comparatively recent origin, and that the terms of both Council and Assembly should as far as possible be made to coincide, despite the power of dissolution in the provinces. But they here allude appreciatively to the obvious arguments which could be found for encouraging an opposite tendency.

44. *Paragraphs* 153 *to* 155.—The local Government's views as to the distribution of functions between the Central Government and the Governments of Provinces have already been outlined. It is considered that residual functions should be absorbed in process of time by the federal units, as the Commission suggest.

The protection of minorities.

45. *Paragraph* 156.—While appreciating the difficulties of arranging for the protection of minorities, especially in view of the possibility that the high offices on which the duty of interpreting the constitution is to be placed will in time probably be held more and more by members of the communities and interests concerned, the local Government can only repeat their suggestion made in paragraph 30 above, in the hope that it may be possible to define more clearly some means of providing protection against discriminatory legislation.

Relations between the Centre and Provinces.

46. *Part IV, Chapter* 4.—The Government of Assam generally accept the conclusions of the Commission, save in one particular. They must deprecate the suggestion that the allocation of police administration to the provinces should be qualified by reservation of a special power to the Central Government to require co-ordination of activity in the Criminal Investigation Department. They consider that the Central Government can as readily co-ordinate

activity in this matter as in the important sphere of public health measures by the ordinary methods of advice and remonstrance; and if it be indeed necessary to contemplate the possibility of a province failing in its obvious duty to provide for the essentials of police intelligence the power proposed in item (2) of paragraph 182 provides the Central Government in their view with adequate powers of intervention.

Indian Finance—Sir W. Layton's Report.

47. *Part VIII.*—The Government of Assam appreciate the care and fullness with which financial matters have been dealt in Sir W. Layton's Report. They are acutely cognizant of the need for increasing the resources of the province, and consider that his proposals and the procedure outlined for establishment of the provincial fund are generally satisfactory.

In paragraphs 296 [read with 288 (*c*)] and 304 Sir W. Layton makes it clear that an agricultural income-tax would be intended to benefit the agricultural provinces, the provinces in which industry is an important factor benefiting from the general proposals regarding income-tax, and in paragraph 321 (v) he definitely recommends that the whole proceeds of taxation of agricultural incomes should be assigned to the province of origin. In paragraph 270, however, he states that the yield of an agricultural income-tax could appropriately be assigned to the province where it was collected. It must here be pointed out that the chief benefit which might accrue from such a tax to this province would be derived from taxation of the proportion of the profits of tea companies now exempted from the income-tax. The tax is now collected for the most part in Calcutta, and on Sir W. Layton's wording in paragraph 270 the yield would be assigned to Bengal, where the offices of the tea-producing companies are situated. In the opinion of this Government the yield should accrue to the province of origin. They are aware of the difficulties that may arise in determining accurately the origins of the income of a company which may operate in several spheres, but they consider that an attempt must be made to do so in this case, or the obvious purpose will be defeated.

As the yield of an agricultural income-tax in Assam would be mainly derived from tea culture, its enforcement would to this degree be simpler in Assam than in provinces where the same consideration does not apply. The levy of income-tax on the whole profits of the concerns would be no more difficult than that on the proportion now subject to tax, for which a satisfactory working arrangement is already in force.

48. This Government have already pressed, in Chapter V, paragraph 20, of their memorandum, for power to derive increased resources from a terminal tax. Since objection may be raised on the ground that some municipalities already enjoy the proceeds of an octroi, terminal tax, or some similar form of taxation, it is necessary

to point out that no municipal board or other local authority in Assam has ever imposed an octroi, and therefore the local Government are debarred by item 8 of Schedule II to the Scheduled Taxes Rules from resort to this source of revenue even for local purposes, save with the previous sanction of the Governor-General in Council. They do not therefore consider that the existence of the octroi and similar taxes in other provinces of India should stand in the way of a measure which, it is believed, would enable the improvement of conditions in Assam. A further ground of opposition may be that a terminal tax must necessarily operate as an impediment to trade. The Government of Assam desire to make it clear in reply to this class of objection, that their main object in proposing the imposition of a terminal tax was to provide the funds necessary for the removal of far more serious obstacles to trade in the shape of the deplorably bad communications which now exist. Whatever therefore may be the objections in theory to the imposition of terminal taxes in more advanced countries, they consider such a tax a justifiable and desirable expedient in the special circumstances of Assam.

As is recognised in paragraph 304 of the Report, the items in Sir W. Layton's proposals from which this province is likely to derive the most benefit are the terminal tax and the taxation of agricultural income. It seems likely, however, that both these items will meet with considerable opposition; and the government of Assam desire to emphasise the fact that without them the increase of provincial revenues that might result from the proposals would be inadequate to meet the many local needs, which in paragraph 263 are justly stated to be the heart of the problem.

The future of the Services.

49. *Part IX.*—The Government of Assam do not propose to deal collectively with the future of the services. It is recognised that in any system of self-Government the chief voice as to the nature of, and recruitment for, the civil services through which it will operate must be allowed to the representatives of the people. In the event of the backward tracts being administered through officers borrowed from the provincial cadres, it would be necessary to make the calculations for recruitment of the Indian Civil and Police Services so as to allow for different rates of Indianization in the proportions recruited for those tracts.

50. *Paragraph* 339.—The Government of Assam are unanimous that the recruitment and control of the Civil Services should be removed from political influences, and that the example of those countries which have established Civil Service Commissions is a desirable one to follow. The problem would be easier of solution if it were possible to recruit by competitive examination, but it has not hitherto been found practicable to apply the competitive

principle in this province. In certain services, such as the educational and the medical, recruitment is largely governed by qualifications and positions in the academic lists: in such cases examinations are not so much required to establish the fitness of candidates. But even in these services, and equally in the remainder, the difficulty is to avoid the risk of capture by particular classes. The task of recruitment in such circumstances requires a high degree of capacity and trustworthiness in the Commissioners. But it is doubtful how far it would be possible for the Central Public Service Commission to undertake recruitment of a provincial staff, and the entertainment of a whole-time Commission for the needs of this province alone would be uneconomic. The Government of Assam do not consider that it would be practicable to share a Commission with a neighbouring province or provinces, for the problems and policy of the latter might be entirely different from those of Assam.

So far as the Provincial Services are concerned an alternative may be found in a system advocated by the Minister for Local Self-Government, whereby appointments would be reserved for different communities, provided that the candidates had reached a given standard set in examinations to be held by the Central Commission. A local Commission would however still be needed for the subordinate services; and if one were created for this purpose the Judicial Member would prefer that it should conduct recruitment for the Provincial Services also.

His Excellency and the Finance Member consider that the creation of an *ex-officio* Provincial Commission would be the most satisfactory solution. The other members of Government are not satisfied that such a body would possess public confidence, and would prefer one composed of a person unconnected with the province as Chairman, who like the Chairman of the Central Commission would be debarred from holding any other post, and of certain retired officers or non-officials without political bias as members. If it should be found financially impossible to entertain a whole-time Commission of this nature, and in so far as use of the Central Commission were impracticable, they would wish to eliminate the official element as far as possible, at any rate as regards any officials who might be in active personal contact with provincial affairs, and associate in the Commission non-officials known to be free of political bias. His Excellency considers it extremely doubtful whether it would be possible to obtain the services of non officials corresponding to this description. The Minister for Education considers that considerable expenditure would be justified for the purpose of securing a whole-time Provincial Commission.

The reception given to the Report.

51. The Government of India have requested an appreciation of the reception accorded to the Report in the provinces. As might

be expected from the fact that it was condemned in advance by both Congress and Nationalist leaders, little public attention has been given to the Report in Assam, and the notices in local newspapers, and the few criticisms which this Government have received from non-officials, suggest that only a few persons in this province have been able to devote the time required for any careful examination of the proposals of the Commission. No practical alternative suggestions have been received. It should be added that there was for some time much difficulty in obtaining copies of the two volumes of the Report. The general attitude is one of hostility and suspicion, which have fastened with particular energy upon those portions of the Report which deal with the powers of the Governor, the appointment of officials as Ministers, and the postponement of responsibility in the Central Government. A general belief has been encouraged that the machinery proposed by the Commission would not in practice be worked in the interests of popular control, and critics decline to credit the Commissioners with a genuine desire that it would be so worked.

52. His Excellency the Governor desires me to place on record his personal views on the general question of constitutional advance.

To those who demand independence and the severance of any connection with the United Kingdom the careful proposals of the Statutory Commission will not appeal, and opposition on the present lines of political excitement must continue to hamper development.

To those who desire to maintain this connection the need of a partnership between the United Kingdom and India is as evident as the difficulty of adapting the general principles which must govern such relations to any definite scheme including the Central Government, eight major provinces, the Indian States and the rest of British India.

In this matter there appear to be two main lines of thought.

One takes the view that it must be in the Central Government that any marked step towards " Dominion Status," " Responsible Government," " Self-government " or partnership must be taken. This school of thought desires to see the Indian continent started now as a State, the power of future development being entrusted to a Government of India, which should in the main essentials be responsible to a popularly elected central legislature. They may recognize that the defence of India, the Indian States and Foreign Affairs cannot at once be transferred to popular control, but they demand immediate freedom from interference in domestic, commercial and financial policy.

The other view, to which His Excellency himself subscribes, appears to be that advocated by the Commission. Freedom and self-government should preferably commence in the provinces, and once successfully established there spread to the centre, the ultimate federation of India as a whole being a process of gradual development under the care and control of the British Parliament.

The pace of evolution will depend on the success of the experiment in the provinces. The proposals of the Commission provide a constitution adaptable to the needs of eight large different countries. Necessarily there are essential details to be filled in. It is less difficult to do this for a country than a continent. In his opinion the result of the great advance in self-government proposed for the provinces should be awaited, so that the experience gained in the actual working of the provincial Governments may be utilised in deciding what practical steps (as distinct from political theories) should be taken in the Central Government. In short, responsible government in the various provinces must be successfully established before it can be introduced in the Central Government. For practical purposes the foundation is more important than the coping stone. In the provincial Governments therefore India will be the predominant partner. These Governments form the basis for future development, and pending their own development England in the interests of security must remain the predominant partner at the centre.

Finally any partnership must depend for ultimate success on mutual confidence and good will. It is His Excellency's belief that these essential conditions are more likely to be realized in the provinces, in the actual working of the constitution by men conversant with local needs, than in the Legislative Assembly. A Federal Assembly composed of members whose first aim was to assist the provinces should in the very pursuit of that aim in course of time find the practical solution of the problem of a Federated India, including the Native States.

NORTH-WEST FRONTIER PROVINCE.

LETTER FROM THE CHIEF COMMISSIONER, NORTH-WEST FRONTIER PROVINCE, No. 3305-P., DATED PESHAWAR, THE 28/29TH AUGUST, 1930.

I have the honour to invite a reference to your letter No. F.108/30-R., dated the 2nd August, 1930, in which you have asked for an explanation of my opinion on the recommendations made in Chapter I, Part III, Volume II of the Indian Statutory Commission regarding the future form of Government in the North-West Frontier Province. During my recent visit to Simla I had the advantage of discussing the subject with the Government of India, and I forward herewith a note giving the broad outlines of the scheme I would propose. This scheme represents the outcome of our discussions at Simla with certain minor modifications, which have occurred to me as the result of subsequent consideration.

2. In the discussion with the Government of India I laid stress on the probability that the grant of Reforms to the Frontier Province will lead to disturbances of the peace; and I emphasized the fact that a new situation has been shown by the events of this year to have arisen in the facility with which discontented persons in the settled districts have been able to call to their assistance tribesmen from across the border. The whole essence of the scheme which follows is conditional on the ability and readiness of the Government of India to ensure, by force if necessary, that trans-border elements shall not be permitted to interfere in cis-border affairs. It is another aspect of the same consideration which compels me to ask for additional police protection, the cost of which along with the cost of such of the police force as is in excess of the normal requirements of a British District in one of the major provinces should be a central charge and not subject to the vote of the Provincial Legislature. I ask for this extra Force because it is a common place which has received many illustrations in the events of this summer that in times of disturbances the best safeguard against disorder is a display of overwhelming strength; and had such strength been displayed on April the 23rd at an earlier stage the loss of life in Peshawar City, which may in some sense be regarded as the immediate cause of our troubles, might have been avoided. It would be most undesirable to call out troops to keep the peace during all Municipal, District Board or Council elections but faction feeling in the Province is so strong and the tempers of the population are so quick that the ordinary precautions on such occasions cannot here be regarded as sufficient. As indicated in the Note accompanying this letter there are of course many other instances here of charges which, though disbursed in the settled districts, should be regarded as Central Charges.

3. I recognise that a Legislative Council containing only a bare majority of elected members will not long satisfy the politically-minded elements in the population of the Province, even though it

satisfies them in the immediate future. The chief cause of political discontent among this section of a very proud people has been the injury to their pride caused by the fact that they have not hitherto been held fit to exercise the powers entrusted for many years to much more backward peoples in other Provinces. At the same time I am not at present prepared to forego either a substantial nominated element in the Legislature or official assistance in the Cabinet whether the latter is to be found in the Constitutions of the Major Provinces or not. I consider that any criticisms on the ground of its illiberality which may be brought against the Constitution I recommend can be met by directing attention to the inexperience of the Province of representative institutions, and, even though such reply may be unsatisfying, I regard any popular discontent which may follow as a lesser evil than the weakness of the executive which must follow more rapid democratisation. But I wish to draw the attention of the Government of India to the dangers which arise from the probable existence of such discontent as well as from the Provincial characteristics of hot temper and faction-feeling to which I have referred above.

4. As you are aware the crux of the whole position is of course the question of finance, and in order to enable me to work out the scheme in detail the Pay and Accounts Officer, N.-W. F.P. has been directed to suggest on the basis of certain figures worked out in 1922 the allocation of expenditure between the heads " Provincial " and " Central " and the amount required as a subvention from Central revenues to meet the excess of " Provincial " expenditure over " Provincial " revenues. When this information has been collected and considered I should be in a position to address you in further detail. I would only note now that it seems to me of great importance that expenditure which is classed as " Central " as distinct from " Provincial " should be, if possible, withdrawn from the arena of discussion in the Central Legislature, on the same lines as, in the case of Army expenditure, it seems possible that such a withdrawal may be arranged.

5. It is regretted that the preoccupations occasioned by the disturbed tribal situation have prevented the despatch of this letter by the date suggested.

TENTATIVE SCHEME FOR THE NORTH-WEST FRONTIER PROVINCE ALTERNATIVE TO THE SCHEME OF THE INDIAN STATUTORY COMMISSION.

I. *The Legislative Council.*—

(*a*) to consist, as recommended by the Commission, of an elected and nominated element in about equal proportions. It is suggested that the elective element should be given a slight majority of 51 per cent. of the total seats;

(*b*) direct election to be substituted for the Commission's scheme of partially indirect election if there is found to be any strong local feeling in favour of a body of elected members wholly chosen by direct election;

(*c*) the franchise to be fixed with reference to local conditions, social and economic; but on the assumption that the electorate should be as large as circumstances may permit. It may be anticipated that the franchise would require to be worked out by a Committee, possibly local in its composition, which would consider and report on the question whether the method of election should be partially indirect or wholly direct;

(*d*) a division of constituencies into urban and rural, and special representation of great landholders and of ex-soldiers;

(*e*) Hindus and Sikhs to be given the choice between various modes of representation including separate electorates and nominations; and the representation of non-Muslims might be double of that to which they would be entitled on a population basis;

(*f*) officials would be limited to 6 to 8 nominated seats;

(*g*) the size of the Legislature—the exact figure to be determined by the convenience of constituencies, that is to say, on the basis of ascertained needs—a total membership nominated and elected of some figure between 30 and 40 may be found appropriate;

(*h*) the Chief Commissioner, who under this scheme might be known as the Lieutenant-Governor, would not, as suggested by the Commission, preside over the Legislative Council. For the first term of the Council, there should be an official President to be followed in the second term by an elected President.

II. *The classification of subjects.*—With the devolution of authority to the Provincial Government, there should be a classification of subjects into central and provincial following broadly the lines of the classification in other provinces. There will, however, be certain subjects peculiar to the North-West Frontier Province, chiefly relating to the tribal areas and the defence of India, for instance the Frontier Constabulary Scouts, Frontier remissions and allowances, strategic roads, the extra police and other forces necessitated by the geographical situation of the Province, etc., which would be classified as central subjects and would not come within the purview of the local Legislative Council.

III. *A unitary or a dyarchic constitution.*—It is possible that either a dyarchic constitution or a unitary constitution with safeguards might be suitable to present conditions in the North-West Frontier Province. But if dyarchy is now discarded in other pro-

vinces, there would be objections to the simultaneous adoption of that particular form of Government for the North-West Frontier Province unless local public opinion were to express a preference in that direction. This tentative scheme, therefore, contemplates a constitution on unitary lines. In that event there would be no division between reserved and transferred subjects.

IV. *The form of the executive Government.*—The Lieutenant-Governor would be the head of the administration assisted by two Ministers of whom one would be an official.

V. *The powers of the Legislature.*—The Legislature should have powers of discussion and interpellation together with the power to vote supply for provincial subjects. Its legislative powers would extend over provincial subjects; but the power to make regulations under section 71 of the Government of India Act would remain with the Governor General in Council. Matters which involve considerations of tribal affairs and the defence of India whether arising in Tribal Territory or the settled districts would be excluded from the purview of the Provincial Legislature in the same manner and by the same means as the affairs of the Indian States are at present excluded from the purview of the Central Legislature.

VI. *Central Control.*—In those subjects which would be classified as provincial the relations between the Central and the North-West Frontier Province Government would be the same as between the Central and other Provincial Governments. There would, however, be central subjects peculiar to the North-West Frontier Province in which the Lieutenant-Governor would be acting directly as the Agent of the Central Government and under their orders.

VII. *Financial arrangements.*—The first necessary preliminary is that the heads of account in the budget of the North-West Frontier Province should be separated in order to distinguish what may be called its normal domestic expenditure from expenditure undertaken to meet defence and other special requirements due to the geographical position of the province. It is probable that the revenues raised within the Province will not balance the estimated normal domestic expenditure, and that a subvention from central revenues will be necessary. It is suggested that this subvention should be for a term of five years, after which it would require to be renewed at the same or a revised figure by the vote of the Federal Assembly or by such organisation as may be set up for this and kindred matters. Under this arrangement there would be no annual vote in the Assembly of funds required for the provincial expenditure of the settled districts of the N.-W. F. Province.

This tentative scheme is stated in outline only. The main features in which it departs from the Commission's recommendations are in the devolution of authority to the Local Government;

the provision for a financial settlement; the possible introduction of entirely direct election, and the presence in the executive of two Ministers, one official and the other non-official. It is believed that reliance on the nominated elements in the Legislature, and official assistance in the Cabinet, may secure to the Lieutenant-Governor adequate controlling authority while giving the province a flexible constitution capable, with the growth of political experience, of development and expansion without the necessity of subsequent violent changes or radical statutory amendment. For the Tribal Territory the Lieutenant-Governor would remain the Agent to the Governor-General in Council.

AJMER-MERWARA.

From the Chief Commissioner, Ajmer-Merwara, to the Joint Secretary to the Government of India, Reforms Office, No. 45-C./111-C.C./30, dated the 15th August, 1930.

SUBJECT.—*Recommendations of the Indian Statutory Commission relating to Ajmer-Merwara.*

I have the honour to refer to letter No. F.-67/30-R., dated the 24th June, 1930, from the Government of India, Reforms Office, on the subject mentioned above, and to communicate the following remarks on the proposals of the Indian Statutory Commission so far as they relate to Ajmer-Merwara.

2. The Commission has expressed the opinion that the present system of Government of Ajmer-Merwara cannot usefully be modified (Volume II, paragraph 126) and they make the following recommendations :—

(1) that the Province should be represented by one member in the proposed Federal Assembly to be nominated by the Chief Commissioner after ascertaining the views of the leading citizens (Volume II, paragraph 144).

(2) that the Province should share a seat in the Council of State in turn with Coorg and British Baluchistan (Volume II paragraph 150).

3. In paragraph 368 of Volume I of the Report are summarised the various proposals which have been advanced from time to time with a view to solve the difficulties inherent in the administration of a small isolated unit and to enable Ajmer-Merwara to participate more fully in the Reforms. They included—

(*a*) merger with a larger administrative unit,
(*b*) the establishment of an Advisory Council,
(*c*) the creation of a Legislative Assembly.

These solutions have been, I consider, rightly rejected for the reasons given. It may be that in the future educated opinion may favour merger with Delhi or the United Provinces as the only means by which the Province can participate in a further advance to self-governing institution, but for the present such a solution would find little support locally and the bulk of the inhabitants would prefer to retain the present isolation of the Province and the distinctive features of its administration.

The arguments against the proposals to establish an Advisory Council of a Legislative Assembly are, in my view, sufficiently cogent to justify their rejection even if a genuine popular demand for them existed but there is no evidence that any such demand exists and indeed no move has been made locally during the presence

of the Commission in India to press a case for any modification in the present arrangements.

4. In the circumstances, anomalous though it is that the legislative needs of Ajmer-Merwara should be supplied by a Federal Assembly the majority of the members of which has no knowledge of the province, its traditions and customs, the retention of the existing form of Government seems at present the only practicable course.

5. The Commission's recommendation, that the representative of the Province in the Federal Assembly should be nominated and not elected is one with which I am unable to agree. No reasons have been given by the Commission for depriving the Province of a privilege which it has enjoyed since January, 1924, nor am I aware of any grounds for differentiating in this respect between the method adopted for Delhi and that for Ajmer-Merwara. The attitude of the Province as a whole towards the Civil Disobedience movement has been sane and loyal. A change, therefore, from representation by election to representation by nomination in the absence of substantial grounds for so retrograde a measure seems to me not only unjustifiable but politically unsound for the Chief Commissioner at each election would be placed in an embarrassing position in having to choose between the claims of the candidates of the rival communities and would inevitably incur the covert animosity of the community whose candidate he rejected. I am, therefore, strongly of opinion that the Province should retain the privilege of electing a Member of the Assembly. It is true that, as the electorate is predominantly Hindu, the chances of a Muhammadan being elected as a representative of the Province are remote but if the recommendations of the Commission regarding the safeguarding of the interests of minorities are accepted, their interests in the Assembly will be protected by other means while further protection in the case of Ajmer-Merwara will be afforded if the proposals which I make later in this letter for representation in the Council of State are accepted.

6. Turning now to the method of election I advocate that the system of indirect election which the Commission recommends in the case of Delhi should be adopted also in Ajmer-Merwara and the representative in the Federal Assembly, chosen at a joint session of the Members of the Municipalities of Ajmer, Beawar, Kekri, the Cantonment Board, Nasirabad and the District Board, Ajmer-Merwara.

There are at present 4,339 names on the electoral rolls of the Legislative Assembly and 10,051 on the electoral rolls of the four local bodies in which there is a franchise, so that the number of electors indirectly participating in the election will be larger. Moreover, if these bodies are entrusted with the task of electing the

provincial representative, interest in the election of the members of local bodies which at present is languid should be stimulated and some advance in the desired education of the electorate secured.

7. It will be seen from the accompanying statement that the present composition of the various local bodies is defective as an electoral College owing to the fact that the number of officials and nominated members is excessive. But the constitution of the Kekri Municipal Board which is at present composed entirely of nominated members is now being changed and the Board will in future consist partly of nominated and partly of elected members. A revision of the District Board Regulations also is in contemplation which will result in a considerable reduction of the official and nominated members of the Board. With these changes the defect will largely disappear. Moreover, the number of ex-officio members of the latter body is swollen by the fact that all the 16 Tazimi Istimrardars of Ajmer-Merwara have a seat on the District Board. In view of their status and the extensive landed and rural interests which they represent it is fitting that they should have a larger voice than they do at present in the election of a local representative.

The communities are fairly evenly distributed in proportion to population except that the European and Anglo-Indian representation is high but this defect will also be cured by the measures to which I have referred above.

8. As regards representation in the Council of State the proposal that Ajmer-Merwara shall share a representative in turn with British Baluchistan and Coorg has little to recommend it. If Delhi which has approximately the same population as Ajmer-Merwara is given separate representation there seems to be no adequate reason for refusing it to Ajmer-Merwara. The population of Delhi and Ajmer-Merwara is approximately the same and the proportion of Hindus to Muhammadans similar. In Coorg on the other hand 90 per cent. of the population is Hindu while in British Baluchistan 87 per cent. is Muhammadan. Though the population is about equal, if judged by the standard of literacy Ajmer-Merwara has 113 literates per 1,000 of population and Delhi 122 while British Baluchistan has far less. There is therefore sufficient reason for treating Delhi and Ajmer-Merwara alike. Moreover, apart from its local representatives, the Capital City is not likely to lack capable guardians of its interests either in the Assembly or in the Council of State. In the past these interests have certainly not been neglected while the reverse is true of Ajmer-Merwara.

The prospect of having a seat in the Council of State after an interval of ten years is not likely to be received locally with any enthusiasm or to be considered an asset of any political value. Indeed if the Commission's proposal is accepted it is not beyond

the bounds of possibility that the constitution now created may again be modified before a representative of Ajmer-Merwara has taken his seat in the Council of State.

9. I would therefore suggest that, as in the case of Delhi, Ajmer-Merwara should be given a representative in the Council of State nominated by the Chief Commissioner, the representative in that body being a Muhammadan when the representative in the Federal Assembly is a Hindu. The arrangement proposed is open to the criticism that a representative in the Federal Assembly and a representative in the Council of State is excessive for so small a unit. The justification for it is to be found in the special position of Ajmer-Merwara. So long as the province is represented by one member only in the Federal Assembly, the tendency must be, in the absence of a provincial legislature in which all communities and parties are represented, for all local legislation to be coloured by the views of the particular community and political party to which that member belongs, and, as the representative in the Federal Assembly will usually be a Hindu, local Muhammadan interests will have no voice in the administration.

Ajmer-Merwara.

Population—territorial.

Rural	3,30,574
Urban	1,64,697
Total ...	4,95,271

Legislative Assembly Electors.

Rural	446
Urban	3,893
Total ...	4,339

Population—Communal.

Hindus (including Jains)	3,82,763
Mohammedans	1,01,776
Christian (European and Anglo-Indian)	5,531
Others	5,201
Total	4,95,271

Local Bodies.

Present Constitution.

	Number of electors on the electoral rolls.	Members* who have a vote.	Appointment.					Communal distribution.				Distribution of members according to actual residence.		
			Elected.	Nominated.	Ex-officio.	Government officials.	Non-officials.	Hindus.	Mohammedans.	Europeans and Anglo-Indians.	Indian Christians and Parsis.	Rural.	Urban.	Remarks.
1. Ajmer Municipal Committee.	5,957	21	17	4	—	3	18	8	6	6	1	—	17	
2. Beawar Municipal Committee.	8,067	21	16	5	—	—	21	13	5	1	2	—	20	
3. Kekri Municipal Committee.	No. franchise.	10	—	9	1	1	9	8	1	—	1	—	10	
4. Nasirabad Cantonment Board.	273	11	5	3	3	5	6	4	2	4	1‡	—	7	‡ Parsi.
5. District Board, Ajmer-Merwara.	754	43	16	9	18†	10	33	35	3	4	1	23	16	
Totals ...	10,051	106	65	30	22	19	87	68	17	15	6	23	70§	

NOTE.—
* These figures include Chairman but do not include expert advisers who have no votes.
† Includes 16 Tazimi Istimrardars.
§ Excluding 14 Europeans but not Anglo-Indians.

DELHI.

From the Officiating Chief Commissioner, Delhi, to the Joint Secretary to the Government of India, Reforms Office, No. 7131-Home, dated Delhi, the 8th August, 1930.

In answer to your letter No. F. 67/30-R., dated 24th June, 1930, I have the honour to say that presumably the portions of Volume II of the Report of the Indian Statutory Commission on which my views are desired are :—

Paragraph 126, the two last sentences,
Paragraph 144, second half,
Paragraph 150,

although the latter two paragraphs fall outside the part III mentioned in your letter under reply.

The difficulty I feel about the proposal regarding Delhi in paragraph 144 is that there would be no likelihood of Delhi Muhammadan interests ever obtaining representation thereby in the Federal Assembly. The Delhi Municipal Committee, with its electorate as at present constituted, normally contains rather more Hindus than Muhammadans; and the District Board, as far as can possibly be foreseen, will always and necessarily be preponderatingly Hindu Jat in its composition.

Moreover it might well be that in the near future a reconstituted New Delhi Municipal Committee (to say nothing of the Committee which governs the very considerable area of Civil Lines) would claim to have a voice in the election of any representative from the Province of Delhi.

In view of the position Delhi holds as a centre of Muhammadan tradition and learning, I think it important that it should be represented in any Federal Assembly by a Muhammadan as well as by a Hindu member. I doubt whether the Commission's proposal in their paragraph 150 regarding the Council of State would make amends to Delhi Muhammadans for permanent lack of representation in the Federal Assembly.

BALUCHISTAN.

From the Agent to the Governor-General and Chief Commissioner in Baluchistan, to the Joint Secretary to the Government of India, Reforms Office, No. 3614-P., dated the 14th August, 1930.

I have the honour to refer to your letter No. F.-67/30-R., dated the 27th June, in which you ask for my views on the proposals made by the Indian Statutory Commission in so far as they affect Baluchistan.

2. The Indian Statutory Commission for the reasons given in paragraph 126, Chapter I, Part III of their Report are of opinion that while no grounds exist for recommending a change in the Government of the Province at the present stage, one member from British Baluchistan should be nominated to the Federal Assembly by the Chief Commissioner after ascertaining the views of the leading men of the Province (paragraph 144, Chapter I, Part IV), and that a member should be selected for the Council of State in turn with Ajmer and Coorg (paragraph 150, Chapter I, Part IV).

3. Although it is true that the demand for Representative Institutions of a Western type does not come from the people of Baluchistan who desire no change in the existing form of Government, I consider that it would be unsound to use this as an argument against representation on the Federal Assembly and Council of State. For Baluchistan to attempt to hold aloof from the Central Councils of whatever form of Government that may be instituted in India, would in my opinion be a great mistake and would eventually prove most detrimental to the interests both of the Administration and of the people of the country. On the other hand the presence of a representative in the Federal Assembly would be useful in many ways. Besides keeping the Administration in touch with the politics of India, he would be of assistance to the Foreign and Political Department in furnishing information in respect of any question that may come before the Assembly regarding Baluchistan and could put forward the Baluchistan point of view when any enactment of general application was under consideration.

4. There is one point however in connection with the Commission's proposal that requires to be clearly defined. " British Baluchistan " in the full sense forms less than 1/3rd of the whole country with a population of 128,000 persons and consists of small tribal areas scattered throughout the Province. To confine representation to these small and unimportant areas would in my opinion seriously limit the field of selection without any compensating advantage.

I would therefore recommend that for the purposes of representation " British Baluchistan " should be interpreted in its wider senses and be held to include all administered and Tribal areas and Agency territories in addition to actual British Territory.

5. Subject to this definition of the words " British Baluchistan " I fully concur with the proposals of the Indian Statutory Commission and recommend their acceptance.

COORG.

From the Chief Commissioner of Coorg, No. 2852/11-28, dated the 4th September, 1930.

I have the honour to refer to Mr. Dewar's letter No. 2396/11-28, dated the 26th July, 1930, and to say that, owing to the delay in the distribution of the Indian Statutory Commission's Report, I have only now had an opportunity of obtaining and studying the views of the leading inhabitants and Associations of Coorg.

2. Three main desires seem to emerge from the memoranda submitted by the leading inhabitants (including those members of the Coorg Legislative Council who wished to do so) and Associations and from discussions with them :—

(*a*) a desire to amalgamate with a greater Province (naturally Madras), to see the formation of a Karnataka Province, or to obtain complete provincial autonomy,

(*b*) a desire that Coorg shall be represented permanently in the proposed Council of State, and

(*c*) a desire to obtain a number of changes of purely local importance, with which it is unnecessary to deal at present.

3. I must at the outset make it clear that there is a considerable divergence of opinion about the future of Coorg, but I believe that it may definitely be said that the majority, at any rate, of the older people, are at present in favour of Coorg remaining independent. The line of cleavage seems to be between the youth of the Province who wish for wider opportunities (that is to say, for education and appointments) and the older people who cling to the Past and are, perhaps wisely, dubious about the likelihood of Coorgs receiving opportunities as part of a great Province, knowing and caring nothing of Coorg.

A Karnataka Province might be a possibility if *all* the Kanarese-speaking peoples were included, but this would involve, for example, the inclusion of a considerable part of Mysore State.

Complete provincial autonomy is for financial and other reasons impracticable, at any rate, at present.

In practice, therefore, there are two alternatives (i) to amalgamate with Madras, if Madras were willing, or (ii) to remain independent, with an administration on much the same lines as at present, though, possibly with some local changes, for which there is a demand.

I am strongly of opinion that it would be unwise to come to a premature and final decision, while political excitement is still rife, but I feel that the door should be left open, so that later, when it is known what the future of the great Provinces will be and when it has been possible to see to what extent local changes

can be made to meet the desire for a greater share in the administration of Coorg, it will be possible to give Coorg the opportunity, if a true majority of the people so wish, of attaching itself to a great Province.

4. I support the desire that Coorg should be given a permanent representative on the Council of State, firstly, on the ground of history and, secondly, on the ground of expediency.

It will be remembered that help was received from the Coorgs in the wars with Tipu Sultan and that Coorg was taken under our protection at the request of the people themselves. The terms of the " Final Proclamation of the Annexation of Coorg " dated the 7th May, 1834, run (Aitchison's Treaties, Engagements and Sanads. Volume IX, page 361) :—

> " The inhabitants are hereby assured that they shall not again be subjected to native rule; that their civil rights and religious usages will be respected; and that the greatest desire will invariably be shown by the British Government to augment their security, comfort and happiness ".

During the Mutiny in 1857 the Coorgs enjoyed the confidence of Government to such a degree that they were exempted from the operation of the Disarming Act, and a notification dated the 26th February, 1861, reads (Rice, Mysore and Coorg. Volume III, page 201) :—

> " In consideration of the exalted honour, loyalty and intrepidity characteristic of this little nation of warriors, and in recollection of its conspicuous services in aid of the British Government, it is my pleasing duty to notify hereby for general information, in virtue of the power vested in me by the Government of India, that the provisions of the Act commonly called the Disarming Act are not applicable to the gallant people of Coorg ".

The Coorgs have remained unswervingly loyal and have kept aloof from the present subversive movements in India.

On the ground of history, therefore, we are bound, in honour, to do all that is possible to give the Coorgs the representation for which they ask.

There is, however, an uneasy feeling among them that they are in danger of being forgotten. The fact that the Indian Statutory Commission has recommended that there shall be no change in the form of Government has naturally disappointed them. They are pleased at the recommendation that they shall have direct representation in the Central Legislature, but the recommendation that they shall send one representative to the Council of State in turn with Baluchistan and Ajmer-Merwara has caused further disappointment. It is pointed out that this means that they are only

to be represented for seven years out of twenty-one, and that possibly for the first fourteen years they may be unrepresented. It would do much to soothe their pride and soften their disappointment at a failure to give them the wider share in the administration, which other Provinces are likely to obtain, if they felt that they had a representative in the Council of State, as well as the Central Legislature. The developments in the other Provinces will make it more and more difficult to administer the Province of Coorg on the present lines, and it is essential to do all that is possible to strengthen the hands of the Administration.

I appreciate that a body of the nature of the proposed Council of State must be limited in size and that Coorg is a tiny place, but history has placed us in a special position of trust, and I hope that it will be possible to meet the wishes of Coorg in this respect.

BENGAL.

(contd.)

From the Chief Secretary to the Government of Bengal.

To the Secretary to the Government of India, Reforms Office.

Dated Darjeeling, the 15th September, 1930.

Reforms.

No. 921 A.D.

SIR,

In continuation of letter No. 219 A.C., dated the 15th August 1930,* I am directed to communicate for the information of the Government of India the observations and conclusions of the Government of Bengal on the financial proposals of the Indian Statutory Commission.

2. The foundation of these proposals is an attempt to apply certain general principles to Central and Provincial finances so as to secure a uniform basis for the provincial settlements. The alternative to this would be settlement with each of the provinces on the basis of needs. This would entail a detailed and laborious investigation by an expert and independent committee such as was proposed to be undertaken in 1919 and it is at least doubtful if its results would be any more satisfactory to all parties than those of the scheme propounded by the Commission. This Presidency having been very adversely affected by the last financial arrangements, the Government of Bengal feel that they have strong grounds for pressing for at least a preliminary adjustment so that they may enter upon the new régime unburdened by the effects of their financial disabilities during the last ten years. They recognize, however, that Bengal is not peculiar in this respect, that some of the other provinces would have claims to similar treatment and that all these would be difficult to assess and adjust. But whether any attempt in this direction is made or not, they consider it of paramount importance for the success of the new constitution that Bengal at all events should start with fresh and increased resources. While therefore, without prejudice to any possible preliminary adjustment, they accept the suggested uniform settlement in preference to one on the basis of needs, they desire to emphasise the necessity of the Government of India organising their finances in the immediate future in such a way that the provinicial Governments may obtain a substantial share of the revenues, which it is proposed to transfer to them, from the very inception of the new constitution.

---

* See page 71.

It is emphasised by both the Commission and Sir W. Layton that their financial scheme is intimately bound up with the federal nature of their general constitutional proposals and particularly with their recommendation for indirect election to the Central Legislature. The Government of Bengal recognize that a federal constitution increases the desirability of a uniform basis for the financial arrangements between the Federal Government and its constituent parts, but they are not equally satisfied that, to quote Sir W. Layton, the " endeavour to ensure that responsibility for imposing additional taxation is definitely laid on those who will have to incur additional expenditure " necessarily involves a scheme of indirect representation in the Central Legislature. In fact this would only seem to follow if it be assumed—and the assumption is by no means self-evident—that the provincial representatives in the Central Assembly would necessarily vote upon instructions received from the Provincial Finance Minister with whom under the proposals the initiation of additional taxation would rest.

3. The main assumption on which the Commission's proposals rest is that, while the expenditure of the Central Government ought to remain more or less stationary, their revenues will progressively increase, thus enabling them to release more and more funds for the benefit of the Provinces. The Government of Bengal are unaware of the facts on which Sir W. Layton based his calculations and have not the material on which to frame any informed criticism, but it seems to them that his figures are very much more optimistic than even he admits, being based on assumptions of rapid recovery from world-wide economic depression, absence of internal and external disturbing factors, and the willingness of the Imperial Government to assume part of the liability for military expenditure. In view of the extremely hypothetical nature of these assumptions, the Government of Bengal consider it most doubtful whether it will be at all possible to frame such a time-table as Sir W. Layton contemplates for the release to the Provinces of sources of Central Revenues. In fact, as was the case with the Meston Settlement, it must in their opinion rest with the Central Government to decide when any surplus shown in the Budget is evidence of a reliable margin of receipts over expenditure sufficient to justify the permanent sacrifice of productive revenue. When, however, this condition has been reached and any source of revenue has been transferred for the benefit of the Provinces, it will, in the opinion of this Government, still be necessary to allow sufficient elasticity to the revenues of the Central Government to enable it to cope with emergencies and they agree with the suggestion contained in paragraph 163 of the Report that in such cases a surcharge could be levied for the benefit of the Central Government on any such source of revenue. They feel, however, some doubt whether even such a provision will by itself be sufficient and incline to the view that the Central Government must retain

the power to fix the rates at which the various taxes are to be levied for provincial purposes; otherwise they might in an emergency find themselves without a taxable margin and the suggested surcharge would be infructuous. They are further of opinion that it will be desirable to retain some such provision as that of the present Devolution Rule 19 to ensure that the Central Government can in case of need call upon the provinces for assistance.

4. The time-table suggested being hardly a matter of practical politics, it seems that the provinces will for a more or less indefinite period get no appreciable share of Central revenues. They will thus have to depend at the outset upon the other features of the scheme for any improvement in their financial position. Before examining these, however, the Government of Bengal desire to point out that in the meantime circumstances may arise in which from time to time the Central Government will find itself in possession of a substantial surplus though it cannot reckon upon its recurrence. It seems reasonable that the provinces should benefit from any such surpluses and that these should be distributed to them on some such automatic basis as is suggested for the "Provincial Fund." It might be necessary to lay down that the provinces should apply such windfalls to non-recurring expenditure or to reduction of debt, but the main point is that, while waiting to share in the results of a permanent improvement in the Central Government's financial position, they can fairly claim to share in any temporary excess of Central Revenue over expenditure.

5. The resources of the Provinces, as contemplated by the Commission, will consist of the following:—

(1) Existing provincial sources of Revenue, *less* commercial stamps and High Court fees.
(2) Terminal taxes.
(3) Surcharges on personal incomes liable to income-tax.
(4) Increased excise duty on foreign liquors.
(5) Fifty per cent. of the yield of personal income-tax when released by the Central Government.
(6) All the income-tax on agricultural incomes.
(7) Share of the "Provincial Fund."

6. As regards the first item, it is to be noted that the receipts in Bengal from commercial stamps when last calculated amounted to Rs. 41 lakhs, while the receipts from miscellaneous High Court fees, i.e., those not paid in judicial stamps (which as proposed in paragraph 347 of the Report will remain provincial) come to about Rs. 3.27 lakhs annually.

As regards the increased excise on foreign liquors, it has been calculated on present rates that the increase in receipts in this Presidency will be about Rs. 27 lakhs. Sir W. Layton reckoned that, as far as the Central Government are concerned, the loss on

foreign liquors and the gain on commercial stamps will about balance, but it will be seen from the above figures that this Presidency will stand to lose about Rs. 17¼ lakhs annually. The Government of Bengal do not, however, oppose the suggested adjustment of these two heads and the High Court fees, provided that this lee-way is made up elsewhere.

7. As to the second item, terminal taxes, the situation in Bengal is complicated in this respect in that a terminal tax on passengers is already levied for the Calcutta Improvement Trust, one on goods is levied for the present Howrah Bridge and one on passengers is proposed for the Howrah Improvement Trust. But apart from this and from the difficulty of calculation and collection, it seems likely that, if imposed on the scale suggested by Sir W. Layton, terminal taxes will amount to an excessively high surcharge on railway freights, which is to be deprecated on general grounds and will be strongly resented by trading interests. On these considerations the Government of Bengal are of opinion that the proposal is hardly within the bounds of practical politics.

8. As regards the taxation of agricultural incomes, it is not very clear from paragraphs 269 and 270 of the Report whether the intention is that this should be imposed Centrally or Provincially, but in the opinion of this Government, apart from the difficulties presented by the varieties of land revenue systems obtaining in different parts of India, this is a tax which could be imposed only by a responsible Government, and it may be accepted as certain that no Legislative Assembly, at any rate in the next few years, would pass such a taxation bill. The subject has often been discussed before, *e.g.*, by the Taxation Enquiry Committee, and it is beset with serious political, legal and administrative difficulties which it would be unwise to ignore or to minimise. Also the estimate of yield has varied from less than Rs. 1 crore to Rs. 3 crores. Sir W. Layton assumes Rs. 5 crores, which would appear to be far too high a figure. In paragraph 269 of the Report it is stated: "Increased productivity, together with the rise of prices since pre-war days, has enormously increased the money value of India's agricultural products." If we consider that one of the major difficulties at the moment is the heavy fall in prices of agricultural produce, *e.g.*, cotton and wheat, and that raw jute in the present year is touching absolutely rock-bottom prices, Sir W. Layton's generalization is open to severe challenge. As regards the possibility of taking agricultural income into account for the purpose of calculating the rate of income-tax, this seems open to precisely the same objections as a tax on the agricultural income itself, which it would in effect be. The Government of Bengal, therefore, consider that the proposal to tax agricultural incomes, either directly as such or indirectly through the rate, is one that must be rejected.

9. It thus appears that the only sources from which the provincial Governments are likely to secure increased revenue are the surcharge on personal incomes liable to income-tax (item 3), half share of personal income-tax (item 5) and their respective shares of the Provincial Fund (item 7). The date when they will receive any share of the personal income-tax is, as already noted, exceedingly uncertain and therefore this source must be excluded in considering the financial condition of the Provinces at the inception of the Reforms. As regards the proposed surcharge on personal incomes, the Commissioner of Income Tax, Bengal, has furnished the following figures as the total income-tax realized from personal incomes :—

	(In thousands). Rs.
1927-28	1,74,11
1928-29	1,92,22
1929-30	1,95,76

This gives an average of Rs. 1,87,36,000 per annum. This, on the supposition that the maximum surcharge is at once imposed, gives an additional revenue of Rs. 46.84 lakhs annually, but it should be borne in mind that this yield depends on the maintenance of satisfactory economic conditions, and that a trade depression such as is being experienced at present will materially affect it. It further seems open to doubt whether the Provincial Finance Minister would take upon himself the onus of proposing to impose the maximum surcharge at the outset. Apart from that, however, the Government of Bengal accept the proposal that provincial Governments should be empowered to levy this surcharge.

10. The " Provincial Fund " is to include the following :—

(1) An excise on tobacco (paragraph 272).

(2) An excise on matches (paragraph 273).

(3) The duty on salt to be transferred if and when the Central Budget permits.

(4) Any other tax of the kind which may be subsequently imposed.

(5) Ultimately a proportion of the Customs revenue.

Of these items it seems unlikely that (3) and (5) will find their way into the Fund in the near future. It also seems unlikely that further taxation on the lines of the proposed excises on matches and tobacco will be introduced or carried for a considerable period. It thus appears that at the outset the Provincial Fund will be limited to these two excises, but the Government of Bengal have been unable to discover at what stage of the constitutional changes the necessary legislation to impose them is to be carried. The natural assumption is that, while provision for constituting a Provincial Fund is to be included in the new Government of India Act, the

actual legislation to introduce the new taxation will have to be proposed and carried in the new Federal Assembly. If this is the correct view, it seems by no means an unreasonable possibility that that body will refuse to pass the requisite legislation, in which case the Provincial Fund will be a mere name without substance. For present purposes, however, it is assumed that this legislation will be successfully carried through. Sir W. Layton reckons that these excises will yield about Rs. 8 crores at the end of 10 years over the whole of India. What initial yield may be assumed has not been stated. This, however, is a point which will be discussed later. It is sufficient for the present to say that the Government of Bengal approve the idea of establishing this Provincial Fund. They are, however, not so satisfied as to the proposals regarding its future modification. In fact they find considerable difficulty in understanding the formula " a majority of the representatives of two-thirds of the Governors' Provinces, including for this purpose the North-Western Frontier Province," which is given in paragraph 163 of the Report. It presumably refers to the elected representatives of the Provinces on the Federal Assembly and excludes nominated and other members, but even so its exact implications are obscure and it reads as if three of the larger Provinces could successfully block any proposal for reallocation or re-distribution of the Provincial Fund, however unfair the original arrangement might have proved to some of the others. The Government of Bengal consider that the procedure proposed is likely to be too rigid and would prefer some simpler machinery which would ensure a periodical revision. In view of the possibility of conflicting provincial interests, resulting in a deadlock, they also consider it desirable to reserve to the Central Government the power of initiating taxation for the benefit of the provinces.

11. It is proposed that the Provincial Fund, when constituted, is to be distributed to the Provinces on the basis of population and, while recognizing that this may operate unfavourably to the less populous provinces, the Government of Bengal consider that it is the most satisfactory course to pursue. It is in fact difficult to conceive any other solution which would not involve a consideration of provincial needs, a method which as already indicated bristles with difficulties and seems hardly likely to produce a more satisfactory result.

12. The application of the Commission's proposals to the finances of Bengal may now be considered in the light of the foregoing observations. As already noted, it has not been stated what yield may be expected from the excises on matches and tobacco when first introduced, but if Sir W. Layton's estimate of Rs. 8 crores for the whole of India after 10 years is at all correct, it may not be unduly optimistic to take half of this as the initial yield. On this basis the share of Bengal at the beginning on the population basis would amount to Rs. 82 lakhs. The yield from a surcharge

on personal incomes of the maximum amount would, as shown in paragraph 9 above, amount to Rs. 46.84 lakhs. The total increase to Provincial revenues would thus be Rs. 128.84 lakhs, but against this is to be set off a reduction of Rs. 14 lakhs from the excess of receipts from commercial stamps over the new excise on foreign liquor and some Rs. 3.27 lakhs on account of High Court fees, as well as increased expenditure on account of the separation of accounts and audit which has not yet been calculated, but which may be taken as being in the neighbourhood of Rs. 5 lakhs; on the other hand there will be a substantial reduction in expenditure of about Rs. 17 lakhs under the High Court. If Rs. 5 lakhs be taken as the cost of accounts, the total improvement to provincial finance, if all expectations materialize, would thus be about Rs. 123½ lakhs as shown in the statement below :—

New receipts.			*Lakhs.* Rs.
Surcharges on personal income			+46.84
Share of Provincial Fund			+82.00
	Total ...		+128.84
Adjustments.		Rs.	
Decreased Receipts.			
1. Commercial stamps *minus* new excises		— 14.00	
2. High Court Fees		— 3.27	
Increased Expenditure.			
3. Accounts		— 5.00	
		— 22.27	
Decreased Expenditure.			
4. High Court		+17.02	
	Net ...	— 5.25	— 5.25
	Result ...	...	+123.59

From the figures of 1928-29 and 1929-30 as given in paragraph 9 above, it appears that the collections of personal income-tax in Bengal amount to about one-ninth of the total collections of income-tax in India. If therefore Sir W. Layton's anticipation of an increase of Rs. 5 crores in 10 years is correct, the provincial surcharge on the same assumption as above will come to one-fourth of one-ninth of Rs. 5 crores, which equals Rs. 13.88 lakhs, bringing the total surcharge to Rs. 60.72 lakhs. Similarly, if his estimate of Rs. 8 crores for the Provincial Fund at the end of 10 years

materializes, the share of Bengal will be Rs. 164 lakhs. Allowing the same adjustments as in the previous calculation for High Court, Excise, Commercial Stamps and Accounts, the net improvement in the provincial position at the end of 10 years without any assistance from Central revenues would be Rs. 219.47 lakhs. This figure falls far short of that which the Government of Bengal consider essential to the proper development of the province, but, if and when the Government of India are in a position to release the share of income-tax suggested by the Commission or the salt revenue for the Provincial Fund, the improvement in Bengal's resources will rise to a figure which may be considered adequate. It must, however, be remembered that the foregoing calculations are based upon so many hypothetical factors that it is quite within the bounds of possibility that the new régime will produce no improvement at all.

13. The Commission's proposals regarding borrowing powers and provincial balances remain to be considered. The former may be summarised as follows :—

(*a*) The loans raised by Provincial Governments should be subject to standard regulations and their raising should be co-ordinated.

(*b*) To this end a Council of Provincial Finance Ministers should be instituted, over which the Finance Member of the Government of India should preside. Its tasks should be " to establish a borrowing programme, to lay down the standard regulations, and to arrange terms with the Government of India." It should, however, be advisory only for the present, and the real power should vest in the Central Government. On the other hand, it is contemplated that the latter should not act without consulting the Council, since it is specifically stated that consultation should invariably be made before special sanction is refused to a loan even where such sanction is definitely required by the regulations

(*c*) As responsible Government in India develops, the Council may cease to be a mere advisory body and may acquire real power.

These proposals, in the opinion of the Government of Bengal, should be accepted in the main though some elasticity should be provided to allow of provinces assuming complete control of, and responsibility for, their own finances, it being quite conceivable on the one hand that a province might command better credit than the Central Government and on the other that the credit of the latter might be gravely impaired by bad finance in one or more provinces.

14. As regards provincial balances, Sir W. Layton's reasons for recommending that the provincial balances should not be separated are given in paragraph 310 of the Report, and in the

last sentence of paragraph 189 the Commission say that they agree generally in Sir W. Layton's observations in regard to the keeping of Provincial Balances. There is no strong demand for a change and the Government of Bengal accept the proposal that matters should remain as they are as far as the Provincial Balances are concerned. It is possible that at some time in the future an autonomous Provincial Government may desire to maintain its own balances, but the matter may be considered when that demand arises.

15. The foregoing paragraphs deal with the main features of the scheme contemplated by the Statutory Commission but certain points of detail require further examination, as well as some of their miscellaneous suggestions.

16. To return to the proposed provincial excise duties on foreign liquors, which are considered in paragraph 291 of the Report, although at first view the suggestion is simple and attractive, closer examination reveals innumerable practical difficulties of which intricate inter-provincial adjustments, a multiplication of bonded ware-houses and a general clogging of the trade are a few. It, therefore, seems preferable that a uniform customs duty should continue to be levied and the proceeds, after reduction of the "luxury duty" portion, distributed among the provinces, either according to consumption or through the Provincial Fund according to population.

17. As regards the suggested excise on matches, a subject which has already been under discussion between the Government of India and Local Governments, the Government of Bengal agree that this should be centrally fixed at a uniform rate throughout India. They realize that, before the excise can be introduced, agreements will have to be reached with the Indian States, and as this is likely to delay matters considerably, they would urge upon the Government of India the necessity of getting their proposals into definite shape as early as possible.

18. The same applies to the proposed excise on tobacco. Sir W. Layton seems to have had cigarettes particularly in mind, but it appears to this Government that the excise should be imposed on all forms of factory-produced tobacco. The question of taxing raw tobacco or of imposing vend licenses may well be left to the provincial Governments to take up if they please.

19. In paragraph 275, Sir W. Layton suggests that cesses on land might be suitably increased. Actually an Act has just been passed in this province imposing an additional cess for the purpose of primary education. Any proposals for its further increase must be left to the provincial Governments and legislatures, but seem likely to meet with very considerable opposition.

20. As regards the proposal in paragraph 267 of the Report that the lower limit of liability to income-tax should be further reduced and the general rate of progression steepened, this Government, while expressing no opinion on the latter proposal, doubt if there are good grounds for adopting the former. Lower individual incomes already pay more tax than is levied in the United Kingdom in the case of married persons owing to the family deductions allowed there, while to lower the limit would mean the imposition of a tax which would fall mainly upon the lower grades of salaried employees of Government. Such a proposal would be greatly resented and the Government of Bengal doubt if the yield would be so much in excess of the cost of collection as to justify its imposition.

21. The question of death duties has been under the consideration of this Government since 1922 and was last investigated in connection with Mr. Burdon's letter No. F-3-(XIII)-F-27, dated the 28th November 1927, but no definite decision has been reached. Their tentative opinion is that this is a matter for provincial legislation, though it will probably be necessary to reserve to the Centre control over the rate of tax in order to avoid differences between provinces.

22. A reference is invited to paragraphs 346 and 347 of the Report in which it is proposed that the administration of the High Courts and the expenses thereof should be transferred to the Central Government, the latter being compensated by making High Court fees a source of central revenue; it is at the same time suggested that judicial stamps should remain provincial. The intention apparently is that all fees which are not paid in stamps should be credited to Central revenues. It has already been pointed out in paragraph 6 of this letter that the income from fees not paid in stamps amounts to about Rs. 3.27 lakhs. The income from fees paid in stamps (Rs. 27.11 lakhs) which includes the very important item, probate duty (Rs. 16.27 lakhs), is very much greater, and the Government of Bengal would like to be assured that this revenue will not be taken from them. As pointed out in paragraph 12 of this letter, the adjustments resulting from the transfer of commercial stamps, excise on foreign liquors, accounts and the High Court would mean a net loss to this province of Rs. 5¼ lakhs. If the probate duty and High Court fees realized in stamps are also transferred to the Centre, the position of this province will be worse than it is at present to the tune of Rs.32 lakhs and upwards while its increased receipts are, to say the least of it, highly problematic. The question is thus one of the utmost concern to this Government and they are anxious that the transfer of the High Court should not involve any change beyond the actual proposal contained in the concluding portion of paragraph 347 of the Report.

23. As regards the separation of accounts and audit, this Government agree that this is desirable in theory and they will be ready to put it into practice as soon as funds permit. For the purpose of previous calculations the additional cost has been taken at Rs. 5 lakhs annually. But this is a pure guess and it may work out at a much higher figure. The United Provinces which alone have introduced this separation have had, it is understood, to incur an additional expenditure of some Rs. 9½ lakhs, but against this have to be set off not inconsiderable savings which have resulted from the separation. If and when this change is introduced, the Local Government will have to rely, at all events for some years, upon the Central Government supplying officers from the Accounts cadre to conduct the work for them.

24. Although it is recognized that no time-table can be fixed for the surrender to the provinces of Central sources of revenue, it is not unreasonable to expect that the Central Government will be in a position as time goes on to make increasing surrenders, and the question will arise in what order the surrenders should be made. Sir W. Layton's proposals which have been endorsed by the Commission definitely recommend that a start should be made with income-tax in order to benefit the industrial provinces, particularly Bombay and Bengal. The Government of Bengal naturally prefer that a share of income-tax should be surrendered first as they stand to gain thereby, but the difference between that and receiving a share of the salt revenue on the population basis will not be so great that they would stand in the way of the latter being chosen first. Presumably, however, the question as it first arises will not be whether the whole of salt or the half share of personal income-tax is to be transferred; the position will be that the Central Government will have a certain surplus upon the recurrence of which they feel that they can rely and the question will be whether this is to be distributed to the provinces through the Provincial Fund on the basis of population by the surrender of a portion of the salt tax, or on the basis of origin as a portion of the income-tax. In the view of this Government it would probably be fair to all provinces if half of the surplus was taken under one head and half under the other.

25. Although the provincial Governments are hardly concerned in the matter, the Government of Bengal agree with the proposal in the concluding portion of paragraph 311 that the present provision requiring the authority of an Imperial Statute for the raising of Sterling loans by the Secretary of State can be abolished, and they do not see any objection to the further proposal that the function of borrowing in London should be transferred from the Secretary of State to the High Commissioner.

26. In paragraph 187 the Commission recommend that the present restriction on spending money from provincial funds on central subjects and *vice versa* should be relaxed and that it should

be rendered constitutionally possible under suitable restrictions to assist provincial objects from central funds. They do not state what they consider to be a suitable restriction, but there should not be any difficulty in devising a formula to enable such mutual assistance to be given for purposes which are of general as well as of local interest, and the Bengal Government support the proposal.

27. In paragraphs 160 and 161 of the Report the Commission propose to retain the power of initiating measures of taxation for Central purposes exclusively in the hands of the executive and to make no change in the existing system of voting estimates. This means that the initiation of proposals, both for taxation and for expenditure, is to remain with the executive. The Government of Bengal consider that this is essential and that it should be definitely laid down that this principle is to apply in the provinces as well as in the Central Government. This would not prevent the local legislatures passing resolutions recommending certain expenditure to Government, but the introduction of the actual proposals for such expenditure must rest with the Government itself and be introduced by one of the Ministers.

28. There remains the question of territorial adjustments. These, if the Commission's proposals are adopted, will involve the transfer of two small blocks of land to the new Oriya-speaking province and the exclusion of the Chittagong Hill Tracts and possibly the Darjeeling District. This implies important adjustments of both revenue and expenditure, but it has been considered premature to examine at this stage the actual financial effects.

29. Before concluding the Government of Bengal desire once more to lay stress upon the imperative necessity of ensuring that the provinces obtain increased resources from the introduction of the new constitution. Attention has already been drawn to this in paragraph 2 of this letter, while the problematical nature of the effects of the proposed scheme has been stressed in paragraphs 10, 12 and 22. No scheme of constitutional reform, however satisfactory in theory, will have any chance of success unless the financial position of the provinces can be improved from the very beginning. The present political movement has affected the income and expenditure of both provincial and Central Governments, and it seems essential that steps should be taken at once to restore financial stability if the provinces are not to enter upon the new régime with empty purses and with no immediate prospect of replenishing them. It thus appears to be of the utmost importance that the Government of India should take immediate steps to add to their resources by increased taxation in order that they may be in a position to surrender some portion of the income-tax or salt duty to the provinces as soon as the new constitution is introduced.

30. In conclusion I am to express the regret of this Government for the delay which has occurred on account of a variety of causes in the submission of these views.

I have the honour to be,

SIR,

Your most obedient servant,

W. S. HOPKYNS,

Chief Secretary to the Government of Bengal.

(8078—3) Wt 12863—9206 3000 11/30 P. St. G. 3

00143597

Digitized with financial assistance from the
Government of Maharashtra
on 18 July, 2018